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ABSTRACT

Cable television for the State of New York is discussed in detail with relation to: (1) the regents of the University of the State of New York, (2) legislation, (3) planning and proposals for franchises, (4) the Federal Communications Commission, (5) access rules, (6) a list of companies and those serving schools, and (7) federal/state/local advisory committee report. (WCM)

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CABLE TELEVISION INFORMATION

IR 001 251

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Bureau of Mass Communications
Albany, New York 12234

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Cable Television: Community Antenna Television (CATV) - Some General Information

There is a growing concern on the part of all educators interested in instructional television. This concern is with community antenna television, cable television, CATV. It is not a new thing. A number of communities at the present time, are receiving broadcast signals over such CATV systems. Broadcast signals are picked up by better, more costly, more sophisticated antennas or other receiving devices than the homeowner or the school can afford individually.

These community antenna systems are privately owned, charge a fee, and operate under a franchise granted by the local government. The older systems may operate on three or five channels; the more modern systems operate on 12, 20, or even more channels as the state of the art in electronics and television develops. The potential uses to which CATV may be applied are expanding. The potential of such a multi-channel system holds promise for a more effective and less costly system of electronic distribution than some other systems. The manifold uses to which such a system may be applied can provide students with direct access to a much broader spectrum of learning experience than ever before.

Most CATV system owners and CATV franchise applicants display concern for the public welfare and education. A number of those presently in business carry and distribute instructional television programs through free hookups to schools or have connected the system to schools for nominal fees. Others, however, have displayed little or no concern for public service and require fees for minimal channel connections.

CATV systems are not, however, a public utility and are not governed by the controls set up by a public utilities commission. They can be governed only by franchises granted by local governments, city councils, and boards of supervisors.

In the late 1940's and the early 1950's when the Federal Communications Commission allocated approximately 20 percent of radio and television channels for noncommercial educational use, a precedent for future allocations (priorities) was thus established. It seems reasonable that the franchise granted to a CATV system make provision for educational use of a portion of that system. At least one public access channel should be thus provided for local use. It is recommended that specific attention be given to "paragraph 76.251, Minimum channel capacity, access channels; sub-paragraphs (a), (4), (5), and (6)" of the FCC rules and regulations. These may be suggested in any local franchise (although the FCC stipulates them only for major television markets). These paragraphs provide: a public access channel for general non-commercial use, an educational access channel specifically designated for use by local educational authorities, and a local government access channel specifically designated for local governmental use.

In most instances, CATV service can be guaranteed for school or college use only as part of the franchise. Such guarantee must be sought before the franchise is granted or renewed. Your leadership in establishing priorities for the educational use of CATV is most important, especially when franchises are being negotiated.

What should you do or can you do about CATV?

1. If you want further information and assistance in taking action, contact:

   Your director of instructional materials, your local station ITV Coordinator, your BOCES board or:

   The New York State Education Department
   Office of Cultural Education
   Bureau of Mass Communications
   Dr. Bernarr Cooper, Chief
   Chauncey Berdan, Associate for CATV

2. Community involvement should be through an Advisory Committee initially formed to assist the municipal officials in determining services CATV can contribute to the community. Members of the Advisory Committee should represent all areas of the community. Their responsibilities should be to:

   a. Become oriented about the potential services CATV can provide to the community, and the economic cost of such services.

   b. Inform the committee and the community about CATV and its potential.

   c. Understand the recommended procedures of the New York State Commission on Cable Television for the franchising process.

   d. Prepare and submit to the municipal leaders a written report containing the findings of the Advisory Committee and its recommendations including:

      .. a description of the cable system deemed best suited to the needs of the community.

      .. the economic cost of such services.

.. plans for utilizing the educational access channel.

The active participation of the community is needed now to assure not only for the present but for the future, adequate planning and continued good use of this newest and valuable distribution service for community and education purposes. This can be accomplished by involving the collective energy of the community, prior, during, and after the awarding of the franchise, and funneling such energies and thought into an active Advisory Committee.

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REGENTS POSITION PAPER ON CABLE TELEVISION AND RELATED ISSUES OF COMMUNICATIONS TECHNOLOGY

Communications technology is on the verge of a revolution so vast and so profound as to influence in an unprecedented way all aspects of man's existence.

The educational ramifications of this revolution will be especially dramatic.

The pending metamorphosis of Community Antenna Television (CATV) into copious systems of multi-channel cable television; the ensuing evolution of cable television into elaborate two-way communications systems involving printed as well as video-screen messages; the proliferation of nation-wide and world-wide communications satellites; the incipient impact of home video cassettes -- all of these engineering wonders are now technically possible and await only the genius of intelligent capitalization and marketing, and, where warranted and necessary, prudent public-interest regulation.

Over the next year the Regents will ask the State Education Department to examine in depth, and to prepare recommendations concerning, the responsibility of various levels of educational government for the financing and preparation of educational program materials that can be distributed through the new technology. This is perhaps the key challenge of the new technical developments.

In the meantime, however, there are short-run issues of franchising, artificial monopolies, and undue commercialism that, in our

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estimation, need immediate public and governmental attention if the extraordinary options ahead are in fact to remain open.

With the above in mind, the Regents now recommend the following:

1. There shall be created a State Commission on Cable Television. The Commission shall report to the Governor at regular yearly intervals. The functions of the Commission shall be reviewed every three years with a view to determining the desirability of its continuance, change, or expansion in the light of developments and changes in the field of educational technology.

2. The major objectives of the Commission shall be to provide state level guidelines in such matters as (but not limited to) the following:

a. Technical standards for equipment and services;

b. Consumer protection including subscription rate limitations and services;

c. Minimum channel capacity of Cable Television systems;

d. The determination of how many channels in each system shall be made available at no cost for educational and public service needs.

3. The Regents shall act as the coordinating body of the Commission on Cable Television for informational and instructional services to the State, and shall articulate over-all New York State Cable Television and Telecommunications policy for transmission to the

Federal Communications Commission.

4. The Regents shall organize an appropriate state level telecommunications policy group to aid the State Commission on Cable Television and the State in determining the educational communications needs of the State and to make recommendations to the Commission and other appropriate bodies for serving such needs.

The Regents are concerned that every positive action shall and must be taken on behalf of the immediate and long range interests of the people of this State in relationship to the emerging communications technology. The Regents are particularly concerned that all local governing bodies shall be informed about the following matters related to cable television franchising practices:

1. Because of rapidly changing communications technology and the need for continuing flexibility, the Regents recommend that no franchises be granted which by their terms are likely to interfere in the future with the full realization of the potential of cable television.

2. The granting of franchises for cable television operations is a matter of interest to all the members of a community. Therefore, final decisions on franchises should be made only after all the members of a community have been given an opportunity to express their views at a public hearing.

3. Every locality and local governing body concerned with the process of franchising is encouraged to seek information, advice, and

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guidance from the Regents particularly as regards the way in which cable systems' franchises may be formulated to meet a community's needs for educational and public informational materials.

4. Franchises shall be granted for such periods of time as shall make such grants desirable and attractive to the best interests of investors, but at the same time limiting the length of franchises in order to guarantee maximum flexibility for future technological developments.

5. Finally, the Regents are convinced that the full potential of long range developments in the field of communications technology are only just beginning to manifest their more exciting possibilities. With this in mind, the Regents strongly recommend that local governing bodies be zealous in retaining for all of their citizens complete options to flexible future developments of cable television.

THE REGENTS CATV CONFERENCE

The Regents of The University of the State of New York held a statewide Regents Cable Television conference in Albany on September 25, 1973. The purpose of the conference was to bring together municipal and town officials with chief school and higher education administrators to examine the potential of the use of cable television to meet educational and instructional needs.

The thrust of the conference was to provide insights and indicate opportunities which would help to shape the use of cable and permit its use for local level action and community need.

The conference examined several aspects of cable television -- its legal problems, methods for using cable systems, ways in which cable systems can be incorporated into or can supplement already existing uses of communications in various towns and cities, as well as institutions of learning.

The speakers included those leaders in national and state affairs who have knowledge of cable television systems, as well as lawyers, educators, and administrators.

SUMMARY OF MAJOR ISSUES TOUCHED UPON IN THE
REGENTS CABLE TELEVISION CONFERENCE

General Comments:

- The educational potential of cable television is powerful but must be developed. Present Federal law reserves educational access until 1977. If educational access is now exercised, the access reservation may be terminated.

- Of the more than 3,000 cable operations now in existence throughout the United States, only a moderate number have addressed themselves to educational and municipal needs.

- Cooperation between the cable operator, the school, and the community is a matter of mutual accommodation, optimum feasibility arrangement, and the dynamics of the relationship of the school or educational institution to the city or community.

- A major planned cooperative use of cable television is necessary to demonstrate an exemplary use of cable television under carefully controlled local-use approaches.

- In order for public access, local government, and educational channels to be available in all markets, community interest for this must be demonstrated. Education, too, must demonstrate its capabilities to use that which it requires of cable television franchisees.

- The New York State Commission on Cable Television was created by statute to develop a statewide telecommunications policy; to promote rapid development of the cable television industry in response to community public interest; to guarantee that cable television companies provide adequate and efficient service; and to encourage programs in the public interest as developed by public and private institutions, municipalities, associations, and organizations.

- The Board of Regents has encouraged the creation of an independent State Commission on cable television. It has envisioned the Commission's concerns to be: setting guidelines for technical matters, protection of the subscriber to cable services, determining logical parameters for minimum channel capacity for each system, and determining how many and how channels may be made available for educational and public service needs. In the State of New York, opportunities for software exist as in no other state, and at no cost. It is up to educators to provide the raw stock material to take advantage of such service.

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Cable Uses and Needs

- The Commission on Cable Television is anxious that educators shall take advantage of cable television and use it effectively and responsibly.

- Educators and cable operators must work together to ensure the educational use of cable television.

- Education must accept technology as a means for increasing educational opportunity and must look on cable television as a means for providing service to education that cannot readily be provided in any other way.

- Cable television offers the opportunity to involve the community more closely with the schools and to help the young people of the community become more involved in community affairs.

- A unique aspect of cable television is that it offers educational service which can be delivered directly to the home, to convalescents, and to shut-ins.

- Video tape and cable television selectively used can become the libraries and lecture halls of the future.

- The cable industry must, by its very nature, support and cooperate with educators who wish to use its technology.

- The educator must demonstrate his ability to use at least one channel before the need to expand to multiple channels is sought.

- If education is not responsive in terms of planned use of cable television channels, it is likely to lose the opportunity to ever claim such channel usage in the future.

Monetary Aspects of Cable

- To provide a maximum service to the community, the CATV operator must see an adequate financial reward.

- Planned use of existing fiscal resources can make for maximal educational effectiveness of cable television availabilities.

- Interconnection of cable systems is a necessary and desirable aspect of cable television. Consortia should be formed to use such interconnection systems so that the benefits of interchange and costs of original programming can be shared.

- There are no technological obstacles or excessive costs which can slow the advent of the educational use of cable. The use of cable for education is a matter of educational decision and specifically planned use for content, number of recipients, and time of day.

- Channel use cost per hour is relatively inexpensive. As now projected, a cable system can have an almost unlimited channel capacity.

- The need to produce adequate materials for the educational use of cable is primarily a problem of capital investment. Cost sharing by users will cut the cost of software to the individual institution while at the same time maintaining a high support level for such materials if consortia or multiple users are investors in the materials.

- Appropriately planned and used cable systems can carefully channel the direction of signals and therefore keep operation costs at a minimum.

One of the speakers at the CATV Conference was Ian Volner, a former senior staff attorney of the Federal Communications Commission. As an attorney in broadcast law with the firm of Cohen and Marks, he has specialized in cable television. His analysis of the FCC rules and regulations appears later in this booklet. His remarks on the legalities of community planning follow.

Community Planning For The Uses Of Cable Television In The Context Of Federal Regulations

My comments will deal principally with the Federal regulations -- those of the FCC -- affecting educators and municipal officials as users of cable television. The Federal Communications Commission contemplates two somewhat separate roles for municipal officers and educators in the development of cable. Under what the FCC calls "deliberately structured dualism," you will have a significant responsibility for the regulation of cable. You will be responsible for the issuance of franchises and for assuring that the systems are constructed and operated in accordance with your own rules, those of the State, and of the Federal Government. In addition, the FCC believes that cable can be used by educators and municipal officials as an educational aid and an instrument of government.

While I may have some unkind things to say about the FCC, on this one point I will concede that it was entirely correct; you do have an important role to play in the regulation of cable television; equally important to you and your constituents is the use which you make of the new medium. I prefer to discuss your role as a user of cable, frankly, because it has more sex appeal; even the problems you face are exciting and the benefits cable offers you are truly enormous. The key to both of your roles, it seems to me, in the development of cable is planning. Let us see, then, what the rules require and permit and what sort of planning and action is called for on your part, as a result.

1. What is Legally Available and Who Can Use it?

The Commission's regulations provide in substance that cable systems in the so-called "major markets" must maintain one special channel for use by "local educational authorities" and a separate special channel for "local governmental uses." At first blush, it appears that the FCC has handed you, as educators and governmental officials, cable television on a silver platter. Almost immediately, two problems become apparent: (1) What is available in the way of educational and governmental channels outside the major markets? (2) Who, in fact, is entitled to use the channels?

The Commission has provided a partial answer to the first question. For our purposes there are 5 major markets in New York State: New York City, Buffalo, the Tri-Cities (Albany/Schenectady/Troy), Syracuse, and Rochester; and all communities within 35 miles of each of these cities. In those areas you can be assured of some cable service to the educational and governmental authorities.

What, then, of communities which do not lie within the 35-mile zone of these five cities? The FCC's rules say that you may require the provision of a governmental and an educational channel as a condition to

the issuance of the franchise. However, you may not require more in the way of educational and governmental cable service than the FCC's rules themselves require in the major markets. In other words, in communities outside of the major television markets you will get a governmental and educational channel if -- but only if -- you have, through planning and coordination, developed a strong enough bargaining position with the prospective cable operators to demand them.

The second question, who is entitled to use these channels, arises because the FCC did not define "local educational authorities" and "local governmental uses." The absence of a definition presents problems.

In a recent case the Commission was asked to decide whether the educational channel was to be controlled by the public school system or by the university which happened to be located in town. Both the public school system and the university claim that it was the "local educational authority," as that term is used in the rule. Each was, of course, willing to allow the other some rights to use the channel, but the question was fundamentally one of control

A dispute of this sort is, in my judgment, a direct consequence of a failure by both sides to plan and anticipate problems. It is apparent to me that neither the university nor the public school system gave much thought to its projected use of cable television as an educational tool. It is also futile to think the FCC is going to help you resolve this type of problem. In the example I have cited, the Commission quite properly simply sent the matter back to the town, saying in substance, "work this out among yourselves."

The solution to this problem is obvious: If you have any reason to believe that there will be more than one educational authority or more than one governmental body in your community interested in use of the channel, you should work out -- in advance -- how the use of the channel or channels will be allocated and shared.

The need for coordination among groups which may be interested in using the educational and governmental access channel has yet another dimension. Largely for historical reasons, the FCC considers each separate community to be a separate cable television system. Unfortunately, however, the operating realities of cable television do not reflect this nice definition. Very frequently, a single cable operator may have a system which serves as many as ten or more adjoining communities. These multi-community systems have been given the unfortunate label, "conglomerate systems."

Read literally, the Commission's rules would require that a conglomerate system provide each one of the communities it serves with its own governmental and its own educational channel. But, the FCC has not read its own rule literally. Instead, it has permitted conglomerate cable systems to provide some lesser number of governmental and educational access channels than the community-by-community rule would otherwise require. It is assumed that the channels will be shared by all of the educational and governmental authorities on the conglomerate system.

The FCC has developed no hard and fast standards for determining the number of governmental and educational channels which a conglomerate system must provide. It needs your help in resolving this problem. If your community is a part of a conglomerate system, you should coordinate your plans for the use of the governmental and educational channels with the other affected communities. You should project each community's individual needs for governmental and access channels and the aggregate needs of all the communities on the system. You should provide this information to the FCC. I have been to enough town council meetings to know that the successful accomplishment of this type of coordination among different communities is no mean feat. However, if you do not coordinate your plans and proposed uses with those of the educators and governmental officials in the other communities on the same system, you may well find too few channels available for too many communities.

2. What can you do with the channels?

The FCC's rules give you an extremely broad latitude in the uses which you make of the governmental and educational channels. The only restrictions on the use of the educational channel are those designed to prohibit the presentation of advertising, lottery information, and obscene or indecent programs. No restrictions whatsoever are imposed by the Commission's rules on the use of the governmental channel.

The very latitude of permissible uses of these channels afforded requires that you plan -- and plan carefully -- your projected uses. The Commission considers this whole matter of offering channels to educators and municipalities an "experiment." This should be taken as something of a warning: what the FCC gives, it can also take away. If the channels the FCC has made available to you are not used extensively and imaginatively, the risk that they will be withdrawn is real.

3. Who Pays for All This?

You may be thinking that all of this is nice, but largely irrelevant: the use of the channels will be expensive; and we all know that educators and governmental officials in New York, as elsewhere, are not suffering from an excess of funds. Fortunately, the FCC's rules provide you with some help on this matter of financing and there are ways by which you can help yourselves.

The rules provide that, for the first five years after the system begins operation, the governmental and education access channels must be made available "without charge." The rule applies only in the major markets. Outside of those markets you will have to bargain for free service.

Do not read more into the rule than is actually there. All you can get is the right to use the channel without charge. You will still have to pay all the costs incurred in producing programs, all the costs incurred in buying any special equipment you need for program production, and all the costs of cameramen, technicians, and the like. Is there some way in which you can get the cable operator to bear these additional costs as well? The answer is "yes," as a practical matter and "maybe" as a matter of law.

As I am sure you are aware, it is the custom for governmental authorities to charge cable operators a fee for the privilege of the issuance of the franchise. The FCC's rules prohibit you from exacting from the cable operator a franchise fee which exceeds 3 to 5% of gross subscriber revenues; and if you propose to charge more than 3%, you must establish to the FCC's satisfaction that the additional amounts are necessary to your regulatory program. This rule would seemingly limit your ability to call upon your franchisee to help finance program production.

But, the rule is delightfully vague and you may be able to take advantage of some of its loopholes to fund program production. For example, the rule does not prohibit you from requiring as a part of your franchise that the franchisee lend you -- without charge -- the equipment and technicians that you need to produce programming. It does not appear that the cost to the franchisee of these "loans" would be treated as a part of the FCC's franchise fee limitations. There are other, perhaps less subtle, ways of calling on your cable operator to bear a part of the program costs. The more direct they are, the more likely it is that they will be disapproved by the FCC. However you work the problem out, the critical element is once again, advance planning and preparation. You should know -- and should be prepared to show to the FCC -- exactly how much money will be involved in program production for the governmental and educational channels, and exactly what you intend to do with that fee you receive from the franchisee.

There are other aspects of the FCC's rules which we could consider, but time is running short. The essential point is that at every step, compliance with the FCC's rules and effective utilization of the channels which the FCC has made available depend upon a single element -- planning. Planning is indispensable, if cable is to be effectively harnessed to the public good. This is a new field. The FCC itself has spent nearly a decade devising, revising,and abandoning policies with respect to its supervision of cable television; and we have no assurance that the rules we have just been discussing are definitive. Moreover, the very complexity of the FCC rules themselves is going to make the formulation of cohesive intelligent policies extremely difficult. The rules threaten -- in John Kenneth Galbraith's words -- to make "technocrats" of us all. Nevertheless, I see no alternative to planning if cable is to be properly harnessed. If its benefits are realized, they will, in my judgment, far outweigh the transitory problems that you faced in bringing cable under control. The fact that the State Education Department was sufficiently concerned to hold this cable conference and you were deeply enough interested to attend, strongly suggests that you will succeed.

One important highlight of the CATV conference was the case study of a school system that had effectively worked with a CATV system operator and the community to provide both an installation and CATV service to its district. The story of the Wappingers Falls School District and Cable television was prepared as a special brochure for the Regents Conference. The three men who made the Wappingers Falls story happen were Harry Calhoun, General Manager of U.S. Cablevision, Superintendent Robert W. Young and Ted Sherman, department head of the Central Media and Library Services of the Wappingers Falls School District.

The Wappingers Falls Cable TV Story

by Dr. Robert W. Young,
Theodore Sherman, and
Harry Calhoun

The Wappingers Falls Cable TV story began some two years ago. At that time the Wappingers Central School district, consisting of 14 schools serving 14,000 pupils and covering 110 square miles, owned one video tape recorder, one camera, and one monitor. It is not surprising to learn that video's chief use at that time was as a motivational tool for class plays or projects and as a toy. There had been no real direction in the uses of video as an educational tool.

In late 1971 the Wappingers Central School District attempted to provide some publicity about the restoration of a one room schoolhouse within the district. The usual newspaper and radio releases were used, but Mr. Ted Sherman, the Wappingers AV man, decided to investigate Cable TV. There was a local channel mostly filled with weather information. Could some use be made of this new, practically dormant media channel? Mr. Sherman viewed it as a sleeping giant, and he contacted the General Manager, Mr. Harry Calhoun.

Although there were two cable companies within the Wappingers Central School District, both systems had common ownership and management. Mr. Calhoun agreed that if the school people would produce a video tape program, it would be played on the local channel of both systems so that most people within the school district would have the opportunity to view it. It was also agreed that if the project went well this budding alliance should produce more education programs.

Cablevision offered the use of its very limited studio facilities and volunteered to have its personnel assist in production to show what could be done with very modest equipment. Modest equipment? Yes - a couple of random interlace cameras, no decent switching or fading, but tricks borrowed from the book used by commercial broadcast stations circa 1935. All these things in a 10 x 14 basement "studio." Surprisingly enough, this team was successful on many levels. Things that could be done with the school's equipment were learned. The public responded to the programming, and the new venture was off to a start looking for more and better programs.

At this point in time it was felt that TV should be available in the schools. Cablevision agreed to provide a free drop to each school that the lines could reach, and the Superintendent of Schools, Dr. Robert W. Young, authorized the expenditure for wiring at least three locations within each school. The cablevision people agreed to sell the school any materials that they could supply at their cost, and they also offered technical assistance in the design and installation of facilities for as many schools as could be equipped. With this feeling of security Mr. Sherman was ready to take the next step. Knowing that he had the support of the Superintendent and the experts to guide him, he decided to try to wire one school completely, with the hope that if this were

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successful he could wire every school in the district. Faced with the same budget problems as exist in every district, Mr. Sherman decided to involve the public and to attempt to wire these schools with as small an expenditure as possible.

It was determined that a very active PTA group existed at the Gayhead School, a large elementary building in the district. This school was chosen as the first project school. Through the principal, contact was made with the PTA who agreed that if the AV Department would wire the school they would purchase, from fund raising, the necessary video equipment to insure the use of the wiring supplied by the school district. The fact is, that in addition to purchasing the video equipment the PTA members also donated the necessary labor to wire the entire school. On Saturday morning, before 8 A.M., not only the principal, teachers and parents, but the cable people, who also donated their time, appeared as a willing work party, complete with dungarees. The cable company brought blue prints, specialized tools and knowledge; the school district supplied all of the rest, thanks to PTA. Before the day was over, working together, the team wired the entire fifty room school, installing an outlet in every room. The "system" was tested and found operative. A plea was then made to all of the parents to donate their used and broken television sets to Gayhead School. Within two weeks sixty sets were donated to the school. Some of them were inoperative, but these were used for parts to repair other sets that had only superficial troubles. These repairs were made by the school district's AV Department. The Gayhead PTA had also collected a fund of $100 to repair the TV sets that they felt were worth repairing.

During the installation five extra cable lines were drawn from the Cafetorium to the Library which was to be the distribution center for the school. The RF modulator required to do this was donated by the cablevision company. The modulator was one found inadquate for commercial use yet perfect for the needs of this one school.

Simultaneously with the wiring of the schools (eight out of fourteen are wired with a drop) the Superintendent of Schools and the Board of Education had made the Wappingers Central School District a community school. It became even more important at this stage to communicate with the public and to gain as much feed back as possible in order to make the community school concept successful. Mr. Sherman, the Media Department Head, aware of the tremendous library of educational tapes available through the Bureau of Mass Communications in the State Education Department, suggested that the school use some of these programs as cultural offerings to the community. The topics available cover a wide range of subjects of interest to entire communities. Programs were chosen very carefully with the help of Dr. Bernarr Cooper, Director of the Bureau, to establish educationally sound programming, legality of presentation and credit protocol. Dr. Young consented to video tape brief opening remarks prior to each state supplied program. In this manner, it was possible to tie general program matter to local situations and needs, and provide a means for school district leaders to communicate directly with the public on local matters. A sample of some of the local opening remarks by Dr. Young goes like this:

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"Welcome to Central Focus presented by your community schools in cooperation with the Mass Communication Bureau of the State Education Department. I am Bob Young, Superintendent of the Wappingers Central Schools. The State Education Department makes educational programs available to us and we are building our own TV tape library. This program will be shown to our students. We want you to know what we do in the school, and we want to share the program with you for your own enjoyment.

"Today's program is about pollution in our rivers. It has meaning for us in the Hudson Valley, etc.

"Now for the program: I hope you enjoy it."

Thus, Dr. Young gets five minute lead time, and often throws in budget problems, squelches rumors, promotes the community school concept and other related items. Sometimes he says, "and we want to share the program with you for your own enjoyment. Today I have with me Mr. John Smith, President of the Board of Education, who will introduce our program, John?

The cablevision company included in their advertising budget promotional spots in local newspapers. This, along with school district publicity releases and announcements on cablevision weather scan made the public aware of the offerings that were available.

The district has now increased to two programs weekly. Each Thursday there is a half hour "Central View," and each Monday evening the cultural program, which was named the "Central Focus." As expertise was gained through the leads and tapes from the cultural programs, the team became more at ease and learned to do a full half hour "Central View" with professional facility. It usually takes two or three hours to video tape two half hour "Central Views" and several leads to the Central Focus can be taped in an hour. Educational shop talk is featured and Dr. Young chairs as the emcee. He has guest teachers, students, administrators, board members and community figures. He can communicate with over thirty thousand people for an investment of about an hour and a half per week. This has come about because of a smart and able businessman, a go-getting media man and the desire of a superintendent to innovate. A lot more is involved now. The team is getting set for closed circuitry in the fourteen schools of the district.

The first school, the Gayhead School, has been engineered for the following capabilities:

a. Off air programming, both commercial and educational, into any or all fifty classrooms simultaneously. This allows selection in individual classrooms of those programs of interest to that particular classroom. Guidelines have been drawn up by the principal and faculty to promote the use of this new service.

b. Live programming broadcast to every room in the school from various points in the school including the cafetorium. This

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make it possible not only for school officials to communicate directly with the students, but also to present special lessons taught by teachers with expertise in specialized areas using specialized equipment not generally available and allows visiting lecturers to be seen by the entire student body.

c. Student productions and participation in the operation of the equipment.

d. The ability to video tape anything presented in the school system for future use in any other school, classroom, or any other facility as well as presentation to the public on cablevision's facilities if the subject matter is deemed acceptable, either as Dr. Young's program or any other program of interest.

e. Seasonal or high demand films to all classrooms at one showing, allowing the film to move to the next school with minimum delay. Although District film techniques are still primitive, the AV Department may be able to obtain a film chain which will allow the presentation of films flawlessly.

In the future the Department hopes to have some means of linking a school district owned and operated production or reproduction facility (possibly the setup which exists at Gayhead) directly into cablevision facilities to provide a link to other schools in the district and/or the public as desired. The cable operator, the AV man and the superintendent are presently exploring the following:

1. Offering an external degree program with the State Education Department via CATV to the residents of the community, including exploration of all avenues of funding toward these goals.

2. The possibility of offering occupational awareness guidance programs to students and non-students alike.

3. With the guidance and cooperation of the Regents Bureau of Mass Communications the team would like to consider offering media curriculum to the high school students. They hope to develop a program of various courses acceptable to the State with the possibility of it being incorporated in the State curriculum. They would hope to have a program funded that would allow them to teach TV production, script writing, photographics, graphics, journalism, recording. As part of this programming one of the courses could allow students, under school auspices, to offer to the community school studio facilities for further reproduction over local cablevision facilities. This would help to fulfill the obligation that the cable company and the local educators feel toward the community and enable the students to gain experience by actually broadcasting in cooperation with a real studio.

Many things that have been accomplished would not have been possible without communication and cooperation between the school district and the cable company, and the willing assistance and expertise of Dr. Cooper. There has been a sincere feeling of trust and warmth between the district and the cable company. The three-man team feels that it is making strides forward and creating something that is unique in the State. They take pride in their relationship and accomplishments. This is perhaps the most important factor in what makes them strive to make things work.

Neither the school nor the cable company has excess monies to spend on what might be considered a frill. They have accomplished everything with donations of energy and materials, coupled with the desire to make things happen and keep expenditures down. A good example of making things happen occurred recently in one of the district's junior high schools. The cable company was willing to give the school a drop, but an underground connection was necessary. Normally, this would have entailed considerable expense which could have prohibited the project. The problem was solved by using the school district's maintenance people to open and close a trench and utilizing cable supplied by the cable company at no charge because it was the end of the roll, too short to be used in normal cable construction. If you can achieve this kind of cooperation with your cablevision company, good things can be made to happen in your school district. Why not give it a try? The Wappingers Central School District has ventured into a new area that has been considered cost prohibitive in the past. Through desire, ingenuity and sincere desire, a dream is being realized. Educationally, all the center, the P.T.A. as it should be, the school and the business community as partners; the involvement of students, teachers, administrators in curriculum projects; the use of agencies such as the State Education Department; and modern communication. These forces combine to strengthen the school in its community. Mr. Sherman was right -- the dormant channel was a sleeping giant.

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At the Regents Cable Conference, the Executive Deputy Commissioner for education, Gordon M. Ambach, had the following to say:

> At the conclusion of the Rand report by Walter Baer on cable television, which is available at this conference, you will find an interesting quote from Henry David Thoreau. In 1849, Thoreau said, "Our inventions are wont to be pretty toys, which distract our attention from serious things. They are but improved means to an unimproved end, an end which was already too easy to arrive at. We are in great haste to construct a magnetic telegraph from Maine to Texas, but Maine and Texas, it may be, have nothing important to communicate."
>
> The challenge to us is that this magnificant technology, CATV, with its great potential, is not a toy of invention as Thoreau commented in 1849, but a media through which we can communicate what is important.
>
> At this point, our focus on CATV is very often directed at the initial capital investment to establish a system. Of equal importance, however, is the continuing consideration of finding the resource -- the funds, the talent, the ideas -- that are essential to providing the substance of communication. CATV brings channels in multiples of twenty. Ten hours of programming per channel per day means 200 hours of programming per day, or 72,800 hours of programming per year. The task of programming on that magnitude is awesome.

The Regents Cable conference concluded with an address by the Honorable H. Rex Lee, former Governor of Samoa, and then a commissioner of the Federal Communications Commission. His last comments were the following:

> The growth and development of cable requires the citizens, public and private institutions, franchising authorities, and cable operators to work closely with one another. Cable TV does hold the promise of reforming, improving, and hopefully lending some economy to our educational process. But it will remain only that, a mere promise, until the technology itself is harnessed for humanistic learning purposes. Only then will the vast benefits of the technology be realized, including that long elusive goal of equal education opportunity.

The following legislation created the New York State Commission on Cable Television -- which will assist local franchising authorities to establish operational standards for cable television systems, in addition to assuring orderly Statewide development of standards of operation for the public interest.

(The page numbers on the original bills have been left intact. However, for the purposes of this publication the bills actually occupy pp. 28-76.)

Chapter # 466 5/24/72

STATE OF NEW YORK

12001—A

IN ASSEMBLY

April 5, 1972

Introduced by COMMITTEE ON RULES—read once and referred to the Committee on Ways and Means—committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT

To amend the executive law, in relation to the creation of a state commission on cable television, prescribing its functions, powers and duties and making an appropriation for its expenses and the general municipal law, in relation to extending provisions relating to franchising

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The executive law is hereby amended by adding thereto a new article, to be article twenty-eight, to read as follows:

ARTICLE 28

COMMISSION ON CABLE TELEVISION

Section 811. Declaration of legislative findings and intent.

812. Definitions.

813. Application of article.

814. Commission created.

815. Duties of the commission.

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

816. Powers of the commission.

817. Costs and expenses of the commission.

818. Municipal fees; taxes or charges.

819. Franchise requirement.

820. Construction of systems.

821. Certificate of confirmation.

822. Transfer, renewal or amendment of franchises and transfer of control over franchises and system properties.

823. Interconnection and system coordination.

824. Requirement for adequate service.

825. Rates.

826. Abandonment of service.

827. Termination of franchises.

828. Landlord-tenant relationship.

829. Censorship prohibited.

830. Liability for obscenity, defamation and invasion of privacy.

831. Invalid provisions.

§ 811. Declaration of legislative findings and intent. Upon investigation of the public interest associated with cable television, the legislature of the state of New York has determined that while cable television serves in part as an extension of interstate broadcasting, operations involve public rights-of-way, municipal franchising, and vital business and community service, and, therefore, are of state concern; that while said operations must be subject to state oversight, they also must be protected from undue restraint

and regulation so as to assure cable systems with optimum technology and maximum penetration in this state as rapidly as economically and technically feasible; that municipalities and the state would benefit from valuable educational and public services through cable television systems; that the public and the business community would benefit if served by cable channels sufficient to meet the needs of producers and distributors of program and other communication content services; and that the cable television industry is in a period of rapid growth and corporate consolidation and should proceed in accord with regional and state-wide service objectives; and, many municipalities lack the necessary resources and expertise to plan for and secure these benefits and to protect subscribers and other parties to the public interest in franchise negotiations.

There is, therefore, a need for a state agency to develop a state telecommunications policy; to promote the rapid development of the cable television industry responsive to community and public interest and consonant with policies, regulations and statutes of the federal government; to assure that cable television companies provide adequate, economical and efficient service to their subscribers, the municipalities within which they are franchised and other parties to the public interest; and, to encourage the endeavors of public and private institutions, municipalities, associations and organizations in developing programming for the public interest.

It is the intent of the legislature in the enactment of this article to vest authority in an independent commission to oversee development of the cable television industry in New York State in accor-

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dance with a statewide service plan; to review the suitability of practices for franchising cable television companies to protect the public interest; to set standards for cable television systems and franchise practices; to assure channel availability for municipal services, educational television, program diversity, local expression and other program and communications content services; to provide consultant services to community organization and municipalities in franchise negotiations; and, to stimulate the development of diverse instructional, educational, community interest and public affairs programming with full access thereto by cable television companies, educational broadcasters and public and private institutions operating closed circuit television systems and instructional television fixed services.

§ 812. Definitions. The words and phrases used in this article shall have the following meanings unless a different meaning clearly appears in the context.

(1) "Cable television company" shall mean any person owning, controlling, operating, managing or leasing a cable television system within the state.

(2) "Cable television system" shall mean any system which operates for hire the service of receiving and amplifying programs broadcast by one or more television and/or radio stations and any other programs originated by a cable television company or by another party, and distributing such programs by wire, cable microwave or other means, whether such means are owned or leased, to persons who subscribe to such service. Such definition does not include:

(a) any system which serves fewer than fifty subscribers; or

(b) any master antenna television system.

(3) "Commission" shall mean the commission on cable television created by this article.

(4) "Franchise" shall mean and include any authorization granted by a municipality in terms of a franchise, privilege, permit, license or other municipal authorization to construct, operate, maintain, or manage a cable television system in any municipality.

(5) "Gross annual receipts" shall mean any and all compensation received directly or indirectly by a cable television company from its operations within the state, including but not limited to sums received from subscribers or users in payment for programs received and/or transmitted, advertising and carrier service revenue and any other moneys that constitute income in accordance with the system of accounts approved by the commission.

Gross annual receipts shall not include any taxes on services furnished by a cable television company imposed directly on any subscriber or user by any municipality, state, or other governmental unit and collected by the company for such governmental unit.

(6) "Master antenna television system" shall mean any system which serves only the residents of one or more apartment dwellings under common ownership, control or management and any commercial establishment located on the premises of such apartment house and which transmits only signals broadcast over the air by stations which may be normally viewed or heard locally without objectionable interference, and which does not provide any additional service over its facilities.

(7) "Municipality" shall mean any village, town, city or county not wholly contained within a city in the state.

(8) "State" shall mean the state of New York.

(9) "State agency" shall mean any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state.

(10) "Person" shall mean any individual, trustee, partnership, association, corporation or other legal entity.

(11) "Program" shall mean any broadcast-type program, signal, message, graphics, data, or communication content service.

§ 813. Application of article. The provisions of this article shall apply to every cable television system and every cable television company as defined in section eight hundred twelve of this article, operating within the state of New York, including a cable television company which constructs, operates and maintains a cable television system in whole or in part through the facilities of a person franchised to offer common or contract carrier services. Persons possessing franchises for any of the purposes contemplated by this article, shall be deemed to be subject to the provisions of this article although no property may have been acquired, business transacted or franchises exercised.

§ 814. Commission created. 1. A state commission on cable television is hereby created within the executive department which shall consist of five members none of whom shall hold any other public office and no more than three of whom shall be of the samo political party. The members of the commission shall be representative of the broad range of interests related to telecommun-

ication needs and concerns including so far as possible the fields of broadcasting, education television, cable television, communication technology and consumer interests.

2. Each member shall be appointed by the governor, by and with the advice and consent of the senate, for five years, provided, however, that of the five members first appointed, one shall be appointed for one year, one for two years, one for three years, one for four years and one for five years, from January first next succeeding their appointment. Their successors shall be appointed for terms of five years each. Members shall continue in office until their successors have been appointed and qualified.

3. The governor shall designate one of the members to be chairman who shall be the chief executive officer of the commission. The members shall elect one of their number as vice chairman of the commission.

4. Vacancies in the commission occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as original appointments.

5. The chairman and the other members of the commission shall receive compensation fixed by the governor within the amounts made available by appropriation therefor. The commission, its members, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public officers law.

6. A majority of the members of the commission then in office shall constitute a quorum for the transaction of any business or the exercise of any power or function of the commission. The commission may delegate to one or more of its members, or its officers,

agents or employees, such powers and duties as it may deem appropriate.

7. The commission may appoint a counsel, an executive director and such other officers, employees, agents and consultants as it may deem necessary, prescribe their duties and fix their compensation within the amounts available therefor by appropriation.

§ 815. Duties of the commission. The commission shall:

(1) develop and maintain a statewide plan for development of cable television services, setting forth the objectives which the commission deems to be of regional and state concern;

(2) to the extent permitted by, and not contrary to applicable federal law, rules and regulations:

(a) prescribe standards for procedures and practices which municipalities shall follow in granting franchises, which standards shall provide for (i) the issuance of a public invitation to compete for the franchise; (ii) the filing of all franchise applications and related documents as public records, with reasonable notice to the public that such records are open to inspection and examination during reasonable business hours; (iii) the holding of a public hearing, upon reasonable notice to the public and the commission, at which the applicants and their proposals shall be examined and members of the public and interested parties are afforded a reasonable opportunity to express their views thereon; (iv) the rendition of a written report by the municipality, made available to the public, setting forth the reasons for its decision in awarding the franchise; and (v) such other procedural standards as the commission may deem necessary or appropriate to assure maximum

public participation and completion and to protect the public interest;

(b) prescribe minimum standards for inclusion in franchises, including maximum initial and renewal terms; minimum channel capacity; provisions regarding access to, and facilities to make use of, channels for education and public service programs; a requirement that no such franchise may be exclusive; and such other standards for inclusion in franchises as the commission shall deem necessary or appropriate to protect the public interest;

(c) prescribe standards by which the franchising authority shall determine whether an applicant possesses (i) the technical ability, (ii) the financial ability, (iii) the good character and (iv) other qualifications necessary to operate a cable television system in the public interest;

(d) prescribe standards for the construction and operation of cable television systems, which standards shall be designed to promote (i) safe, adequate and reliable service to subscribers, (ii) the construction and operation of systems consistent with the most advanced state of the art, (iii) a construction schedule providing for maximum penetration as rapidly as possible within the limitations of economic feasibility, (iv) the construction of systems with the maximum practicable channel capacity, facilities for local program origination, facilities to provide service in areas conforming to various community interests, facilities with the technical capacity for interconnection with other systems within regions as established in the commission's statewide plan and facilities capable of transmitting signals from subscribers to the cable television company

or to other points; and (v) the prompt handling of inquiries, complaints and requests for repairs;

(e) prescribe such standards for the prohibition or limitation of concentration of control over mass media and communication companies and facilities and methods of enforcing such standards, as the commission may determine to be necessary or appropriate to protect the public interest.

(3) provide advice and technical assistance to municipalities and community organizations in matters relating to cable television franchises and services;

(4) establish minimum specifications for equipment, service and safety of cable television systems for use by municipalities;

(5) review and act upon applications for certificates of confirmation in accordance with such standards and as hereinafter provided;

(6) represent the interests of the people of the state before the federal communication commission and make available information on communications developments at the federal level;

(7) stimulate and encourage cooperative arrangements among organizations, institutions and municipalities in the development of regional educational, instructional and public affairs programming services;

(8) cooperate with municipalities to facilitate undertaking of multiple community cable television systems;

(9) encourage the creation of public and community groups, to organize, seek chartering when appropriate, and request franchising for the establishment of public, non-profit and not-for-profit cable television operations;

(10) maintain liaison with the communications industry and parties both public and private, having an interest therein, other states and agencies of this state to promote the rapid and harmonious development of cable television services as set forth in the legislative findings and intent;

(11) undertake such studies as may be necessary to meet the responsibilities and objectives of this article.

§ 816. Powers of the commission. 1. The commission may promulgate, issue, amend and rescind such orders, rules and regulations as it may find necessary or appropriate to carry out the purposes of this article. Such orders, rules and regulations may classify persons and matters within the jurisdiction of the commission and prescribe different requirements for different classes of persons or matters. A copy of any order, rule or regulation promulgated hereunder shall be subject to public inspection during reasonable business hours.

2. The commission may require cable television companies to maintain and file such reports, contracts and statements, including but not limited to ownership, accounting, auditing and operating statements, engineering reports and other data as the commission may deem necessary or appropriate to administer the provisions of this article. The commission, including members of its staff, may make reasonable inspections of the records and facilities of any cable television company.

3. The commission may examine, under oath, all officers, agents, employees and stockholders of any cable television company, municipal officials and any other persons and compel the production of

papers and the attendance of witnesses to obtain the information necessary to administer the provisions of this article.

4. The commission may require and receive from any agency of the state or any political subdivision thereof such assistance and data as may be necessary to enable the commission to administer the provisions of this article. The commission may enter into such cooperative arrangements with the public service commission, the board of regents, the council on the arts, other state agencies and municipalities, each of which is hereby authorized to enter into such cooperative arrangements, as shall be necessary or appropriate to assure that there will be maximum utilization of existing expertise in communications technology, cable television operations and programming and that the purposes of this article will be effectively accomplished. Upon request of the commission, any state agency may transfer to the commission such officers and employees as the commission may deem necessary from time to time to assist the commission in carrying out its functions and duties. Officers and employees so transferred shall not lose their civil service status or rights.

5. The commission shall have and may exercise all other powers necessary or appropriate to carry out the purposes of this article.

§ 817. Costs and expenses of the commission. 1. All costs and expenses of the commission shall be paid pursuant to appropriation in the first instance from the state treasury, on the certification of the chairman of the commission and upon the audit and warrant of the comptroller. The state treasury shall be reimbursed therefor

by payments to be made thereto from moneys collected pursuant to this article.

2. On or before December first of each year, the commission shall estimate the total costs and expenses, including compensation for personal services, necessary to operate and administer the commission for the next ensuing state fiscal year. The commission shall, at such time or times and pursuant to such procedure as it shall determine by regulation, bill and collect from each cable television company the greater of (i) one hundred dollars or (ii) an amount computed by multiplying such total estimated operating expenses of the commission by a fraction the numerator of which is the gross annual receipts of such cable television company during such twelve month period preceding the date of computation as the commission shall designate by regulation, and the denominator of which is the total gross annual receipts of all cable television companies operating in the state during such period. A cable television company may elect to make partial payments for such costs and expenses on March thirty-first, June thirtieth, September thirtieth and December thirty-first of each year. In no event shall the amount billed to or collected from any cable television company pursuant to this section exceed one percent of the gross annual receipts of such company during the twelve month period designated by the commission.

§ 818. Municipal fees; taxes or charges. Nothing in this article shall be construed to limit the power of any municipality to impose upon any cable television company, a fee, tax or charge, provided that any such fee, tax or charge when added to the amount pay-

able to the commission pursuant to section eight hundred seventeen does not exceed the maximum amount permitted by applicable federal law, rules or regulations.

§ 819. Franchise requirement. 1. Notwithstanding any other law, no cable television system, whether or not it is deemed to occupy or use a public thoroughfare, may commence operations or expand the area it serves after April first, nineteen hundred seventy-three unless it has been franchised by each municipality in which it proposes to provide or extend service.

2. A municipality shall have the power to require a franchise of any cable television system providing service within the municipality, notwithstanding that said cable television system does not occupy, use or in any way traverse a public street. The provision of any municipal charter or other law authorizing a municipality to require and grant franchises is hereby enlarged and expanded, to the extent necessary, to authorize such franchises.

3. Nothing in this article shall be construed to prevent franchise requirements in excess of those prescribed by the commission, unless such requirement is inconsistent with this article or any regulation, policy or procedure of the commission.

§ 820. Construction of systems. Every cable television system constructed after April first, nineteen hundred seventy-three, shall comply with such construction standards as the commission may prescribe pursuant to subdivision two of section eight hundred fifteen.

§ 821. Certificate of confirmation. 1. Except as provided in subdivision six of this section, after April first, nineteen hundred

seventy-three, no person shall exercise a franchise, and no such franchise shall be effective, until the commission has confirmed such franchise. A person wishing to exercise a franchise shall file with the commission an application for a certificate of confirmation in such form and containing such information and supportive documentation as the commission may require. The application shall be accompanied by proof of service thereof upon the franchisor and by such fee as the commission may set.

2. The commission may hold a public hearing on any application for a certificate of confirmation if it determines that such a hearing is in the public interest. The commission shall fix the time and place for such a hearing and cause notice thereof to be given to the applicant, the chief executive officer of the municipality issuing the franchise and such other persons as the commission may deem appropriate. Testimony may be taken and evidence received at such a hearing pursuant to such rules and procedures as the commission may establish.

3. The commission shall issue a certificate of confirmation of the franchise unless it finds that (a) the applicant, (b) the proposed cable television system, or (c) the proposed franchise does not conform to the standards embodied in the regulations promulgated by the commission pursuant to subdivision two of section eight hundred fifteen, or that operation of the proposed cable television system by the applicant under the proposed franchise would be in violation of law, any regulation or standard promulgated by the commission or the public interest.

4. The commission may issue a certificate of confirmation contingent upon compliance with standards, terms or conditions set by the commission which it determines would not have been met by the applicant, system or franchise as proposed.

5. In the event the commission refuses to issue a certificate of confirmation, it shall set forth in writing the reasons for its decision.

6. Any cable television company which, pursuant to an existing franchise, (i) was lawfully engaged in actual operations, or (ii) had commenced substantial construction (as such term is defined by the commission) of a cable television system on January first, nineteen hundred seventy-two may continue to exercise said franchise pursuant to the terms thereof, provided such company files with the commission, on or before July first, nineteen hundred seventy-three an application in such form and containing such information and supporting documentation as the commission may require. The commission shall issue a certificate of confirmation to such a cable television company valid for five years without further proceedings, which certificate may be renewed by the commission on application for five year terms pursuant to the provisions of section eight hundred twenty-two.

7. Notwithstanding any other provision of this article, any franchise which has been granted but not exercised as indicated by substantial performance within one year of January first, nineteen hundred seventy-three shall be deemed contrary to the public interest and intent of such franchise and any certificate of confirmation previously issued by the commission shall be invalidated,

unless the cable television company can make an adequate showing that substantial performance was precluded by circumstances beyond the reasonable control of such company. Any subsequent application for a certificate of confirmation shall be determined in accordance with the provisions of this section.

8. The commission shall issue a certificate of confirmation, valid for a five year period, to any cable television company engaged in actual and lawful nonfranchised cable television operations on January first, nineteen hundred seventy-two, if application for such a certificate is made to the commission on or before July first, nineteen hundred seventy-three. Notwithstanding any other provisions of this article, any such company which files such an application may continue to operate within the limits of the area in which it was actually rendering service on April first, nineteen hundred seventy-two, as determined by the commission. Such a certificate of confirmation may be renewed by the commission on application for five year terms pursuant to the provisions of section eight hundred twenty-two.

9. Nothing in this section shall be deemed to validate a franchise not granted in accordance with law or affect any claims in litigation on the effective date of this article. No confirmation under this section shall preclude invalidation of any franchise illegally obtained.

§ 822. Transfer, renewal or amendment of franchises and transfer of control over franchises and system properties. 1. No transfer, renewal or amendment of any franchise, or any transfer of control of a franchise or certificate of confirmation or of facilities

constituting a significant part of any cable television system shall be effective without the prior approval of the commission. Such approval shall be required in addition to any municipal approval required under the franchise or by law. For the purposes of this section, a merger or consolidation of two or more cable television companies shall be deemed to be a transfer of the franchises or certificates granted to such companies.

2. A person wishing to transfer, renew or amend a franchise, or to transfer control of a franchise or of a substantial part of the facilities thereof shall file with the commission an application for approval of such change, in such form and containing such information and supporting documents as the commission may require. The application shall be accompanied by proof of service thereof upon the franchise or, if any, and by such fee as the commission may set. The commission may hold a public hearing on any such application as set forth in subdivision two of section eight hundred twenty-one.

3. The commission shall approve the application unless it finds that the applicant, or in the case of a transfer application, the proposed transferee or the cable television system does not conform to the standards embodied in the regulations promulgated by the commission pursuant to section eight hundred fifteen or that approval would be in violation of law, any regulation or standard promulgated by the commission or the public interest.

4. The commission may approve the application contingent upon compliance with standards, terms or conditions set by the

commission which it determines would not have been met by the proposed transfer, renewal or amendment.

5. In the event the commission refuses to approve the application, it shall set forth in writing the reasons for its decision.

6. Approval of a transfer, renewal or amendment under this section shall not preclude invalidation of a franchise illegally obtained.

§ 823. Interconnection and system coordination. Whenever the commission finds it to be in the public interest, the commission may, either upon application of an interested party or on its own initiative, and after public notice and opportunity for hearing, order the interconnection of cable television systems and facilities or the coordinated operation of such systems and facilities. The commission may append to such order such reasonable terms and conditions as will best promote the public interest.

§ 824. Requirement for adequate service. 1. Every cable television company shall provide safe, adequate and reliable service in accordance with applicable laws, regulations, and franchise requirements.

2. Whenever, upon complaint or upon its own motion, and after public notice and opportunity for hearing, the commission finds that, despite its economic feasibility, the construction or operation of a franchised or certificated cable television system has been unreasonably delayed or that the extension of service to any persons or area within a cable television company's territory has been unreasonably withheld, it may order such construction, operation or extension on such terms and conditions as it deems reasonable and in the public interest.

3. Whenever, upon complaint or upon its own motion, and after public notice and opportunity for hearing, the commission finds that a cable television company is not meeting the service requirements and obligations imposed by this article, by the regulations promulgated hereunder, or by its franchise, it may order compliance therewith on such terms and conditions as it deems reasonable and in the public interest.

4. Failure to comply with an order of the commission issued under subdivisions two or three shall be grounds for denial, suspension or revocation of the right to exercise a franchise or to operate pursuant to a certificate of confirmation.

§ 825. Rates. 1. Except as otherwise provided in this section, the rates charged by a cable television company shall be those specified in the franchise which may establish, or provide for the establishment of reasonable classifications of service and categories of subscribers, or charge different rates for differing services or for subscribers in different categories.

2. Such rates may not be changed except by amendment of the franchise.

3. Notwithstanding subdivision one, (a) no rate provision in any franchise shall bind a municipality for more than ten years and no rate provision in any renewed franchise shall bind a municipality for more than five years. In the event that an existing franchise purports to bind a municipality with respect to rates for a period to expire after January first, nineteen hundred eighty-three, such provisions shall have no further force or effect after January first, nineteen hundred eighty-three; and (b) any rate or rates found by

the commission, after public notice and opportunity for hearing, to be discriminatory or preferential as between subscribers similarly situated shall thereafter be void. Reduced rates or free service to government, educational or charitable institutions shall not be considered unduly discriminatory or preferential.

i. In the event the commission finds that any rate is discriminatory or preferential pursuant to paragraph (b) of subdivision three of this section or that any cable television company is in violation of an order issued by the commission pursuant to section eight hundred twenty-four of this article requiring adequate service, it may issue an order requiring the municipality to provide for new rates which are non-discriminatory and non-preferential or reduced to reflect the inadequate service, as the case may be.

(c) having reduced rates pursuant to paragraph b, the commission finds that the cable television company has substantially remedied the deficiencies, in which case the commission shall return the rates to those rates stipulated in the franchise;

(d) upon complaint by any interested party and after reasonable opportunity for negotiation between the municipality and the franchisee, it finds that rates are not established by or pursuant to the terms of the franchise, in which event, the commission shall fix rates at a level comparable to rates fixed in comparable franchises requiring comparable service for comparable service areas; and

(e) upon request by a municipality and cable television company that the commission prescribe applicable rates, made in such manner as the commission by regulation may prescribe and certifying

that they are unable to agree upon rates to include in any franchise or renewal thereof, in which event the commission shall fix rates at a level comparable to rates currently being fixed in cable television franchises for comparable service in comparable service areas; provided that if the municipality and the company thereafter agree upon rates, such agreed rates shall become effective.

§ 826. Abandonment of service. 1. No cable television, notwithstanding any provision in a franchise, may abandon any service or portion thereof without having given six months' prior written notice to the commission and to the franchisor, if any, and to the municipalities it serves.

2. When abandonment of any service is prohibited by a franchise, no cable television company may abandon such service without written consent of the franchisor, if any, and the commission. In granting such consent, the commission may impose such terms, conditions or requirements as in its judgment are necessary to protect the public interest.

§ 827. Termination of franchises. 1. A franchise shall terminate at the expiration of its term or otherwise in accordance with the provisions thereof, unless, prior thereto, the commission otherwise orders. The commission may so order only if it finds, after public notice and opportunity for a hearing, that the franchisee:

a. has committed a material breach of its franchise or any applicable provisions of this article or of the regulations promulgated hereunder and has failed, without reasonable justification, to cure said breach within sixty days after having received written notice thereof from the commission, or

b. has been adjudicated a bankrupt or has filed a voluntary petition for bankruptcy or reorganization or for an order protecting its assets from the claims of creditors and the commission finds that termination of the franchise or certificate of confirmation under such conditions is in the best interests of the public.

2. Upon termination of a franchise or certificate of confirmation, the cable television company shall dispose of its facilities in accordance with the provisions of the franchise or certificate. However, on motion of any interested party or upon its own motion, and after public notice and opportunity for hearing, if the commission finds that the continued presence of the facilities in any public thoroughfare would pose a nuisance to the municipality or its residents, the cable television company shall remove its facilities within such period as the commission shall order. In the absence of any applicable franchise or certificate provision or order by the commission to the contrary, the cable television company may abandon its facilities.

§ 828. Landlord-tenant relationship. 1. No landlord shall a. interfere with the installation of cable television facilities upon his property or premises, except that a landlord may require:

i. that the installation of cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well-being of other tenants;

ii. that the cable television company or the tenant or a combination thereof bear the entire cost of the installation, operation or removal of such facilities; and

iii. that the cable television company and the tenant agree to indemnify the landlord for any damage caused by the installation, operation or removal of such facilities.

b. demand or accept payment, in any form, in exchange for permitting cable television service on or within his property or premises; or

c. discriminate in rental charges, or otherwise, between tenants who receive cable television service and those who do not.

2. Rental agreements and leases executed prior to the effective date of this article may be enforced notwithstanding this section.

3. No cable television company may enter into any agreement with the owners, lessees or persons controlling or managing buildings served by a cable television, or do or permit any act, that would have the effect, directly or indirectly of diminishing or interfering with existing rights of any tenant or other occupant of such building to use or avail himself of master or individual antenna equipment.

§ 829. Censorship prohibited. 1. The commission may not prohibit or limit any program or any class or type of program or otherwise censor the communications or signals transmitted by any cable television company or over any cable television system, and may not promulgate any regulation or condition which would interfere with the right of free speech by means of cable television.

2. No municipality may prohibit or limit any program or class or type of program or impose discriminatory or preferential franchise fees in any manner that would tend to encourage or discourage programming of any particular nature, directly or indirectly.

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3 No cable television company may prohibit or limit any program or class or type of program presented over a leased channel or any channel made available for public access or educational purposes.

§ 830. Liability for obscenity, defamation and invasion of privacy. Neither the cable television company whose facilities are used to transmit a program produced by a person other than such cable television company pursuant to the provisions of this article or of federal law or of applicable regulations, nor the officers, directors or employees of any such cable television company shall be liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when such company does not originate or produce such program.

§ 831. Invalid provisions. If any provision of this article or the application of such provision to any circumstance is held invalid for any reason whatsoever, the remainder of this article or the application of the provision to other circumstances shall not be affected thereby.

§ 2. Appropriation. The sum of three hundred fifty thousand dollars ($350,000), or so much thereof as may be necessary, is hereby appropriated in the first instance to the commission hereby created and made immediately available for its expenses, including personal service, in carrying out the provisions of this act. Such moneys shall be payable out of the state treasury after audit by and on the warrant of the comptroller on vouchers certified or

approved by the chairman of the commission or by an officer or employee of the commission designated by the chairman.

§ 3. Subdivision two of section eighty-eight of the general municipal law, as added by chapter four hundred nineteen of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

2. Notwithstanding any other provisions of law, [for a period of one year from the effective date of this section,] *until April first, nineteen hundred seventy-three,* no municipal corporation may give, grant or award to any individual, partnership, association or corporation, upon any terms or conditions whatever, any franchise for the purpose of constructing, erecting, operating or maintaining any catv system in the state.

§ 4. This act shall take effect January first, nineteen hundred seventy-three.

Chapter #467 5/24/72

STATE OF NEW YORK

12378

IN ASSEMBLY

May 5, 1972

Introduced by COMMITTEE ON RULES—(at request of Mr. Kelly)—read once and referred to the Committee on Rules

AN ACT

To amend the executive law and a chapter of the laws of nineteen hundred seventy-two, entitled "An act to amend the executive law, in relation to the creation of a state commission on cable television, prescribing its functions, powers and duties and making an appropriation for its expenses and the general municipal law, in relation to extending provisions relating to franchising", in relation to the regulation of cable television

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs (a) and (b) of subdivision two of section eight hundred fifteen of the executive law, as added by a chapter of the laws of nineteen hundred seventy-two, entitled "An Act to amend the executive law, in relation to the creation of a state commission on cable television, prescribing its functions, powers and duties and making an appropriation for its expenses and the

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

general municipal law, in relation to extending provisions relating to franchising", are hereby amended to read, respectively, as follows:

(a) prescribe standards for procedures and practices which municipalities shall follow in granting franchises, which standards shall provide for (i) the issuance of a public invitation to compete for the franchise; (ii) the filing of all franchise applications and related documents as public records, with reasonable notice to the public that such records are open to inspection and examination during reasonable business hours; (iii) the holding of a public hearing, upon reasonable notice to the public and the commission, at which the applicants and their proposals shall be examined and members of the public and interested parties are afforded a reasonable opportunity to express their views thereon; (iv) the rendition of a written report by the municipality, made available to the public, setting forth the reasons for its decision in awarding the franchise; and (v) such other procedural standards as the commission may deem necessary or appropriate to assure maximum public participation and [completion] *competition* and to protect the public interest;

(b) prescribe minimum standards for inclusion in franchises, including maximum initial and renewal terms; minimum channel capacity; provisions regarding access to, and facilities to make use of, channels for education and public service programs; a requirement that no such franchise may be exclusive; *standards necessary or appropriate to protect the interests of viewers of free broadcast television and the public generally, which prohibit or*

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limit cable television companies from prohibiting or entering into agreements prohibiting the sale or other transfer of rights for the simultaneous or subsequent transmission over free broadcast television of any program originated or transmitted over cable television; and such other standards for inclusion in franchises as the commission shall deem necessary or appropriate to protect the public interest;

§ 2. Paragraph (e) of subdivision two of section eight hundred fifteen of such law, as added by such chapter, is hereby amended to read as follows:

(e) prescribe such standards for the prohibition or limitation of concentration of control over mass media and communication companies and facilities and methods of enforcing such standards, as the commission may determine to be necessary or appropriate to protect the public interest; *provided, however, that nothing herein contained shall be construed to authorize the impairment of any existing rights of any mass media and communication company or any subsidiary thereof.*

§ 3. Subdivision two of section eight hundred seventeen of such law, as added by such chapter, is hereby amended to read as follows:

2. On or before December first of each year, the commission shall estimate the total costs and expenses[, including compensation for personal services,] necessary to operate and administer the commission for the next ensuing state fiscal year, *including the repayment of any first instance appropriations outstanding on March thirty-first immediately preceding such fiscal year.* The commis-

sion shall, at such time or times and pursuant to such procedure as it shall determine by regulation, bill and collect from each cable television company the greater of (i) one hundred dollars or (ii) an amount computed by multiplying such total estimated operating expenses of the commission by a fraction the numerator of which is the gross annual receipts of such cable television company during such twelve month period preceding the date of computation as the commission shall designate by regulation, and the denominator of which is the total gross annual receipts of all cable television companies operating in the state during such period. A cable television company may elect to make partial payments for such costs and expenses on March thirty-first, June thirtieth, September thirtieth and December thirty-first of each year. *On or before September fifteenth of each year, the commission shall compute the actual costs and expenses of the commission for the preceding state fiscal year and shall, on or before October fifteenth of such year, send to each cable television company a statement setting forth the amount due and payable by, or the amount standing to the credit of, such cable television company computed on the basis of the above stated formula, except that for the purposes of such computation the fraction shall be multiplied against the total actual operating expenses of the commission for such fiscal year. Any amount owing by any cable television company shall be payable not later than thirty days following the date of such statement. Any amount standing to the credit of any cable television company shall be applied as a credit against any succeeding payment due.* In no event shall the amount billed to or collected from any cable

television company pursuant to this section exceed one percent of the gross annual receipts of such company during the twelve month period designated by the commission.

§ 4. Subdivision four of section eight hundred twenty-five of such law, as added by such chapter, is hereby amended to read as follows:

4. In the event the commission finds that any rate is discriminatory or preferential pursuant to paragraph (b) of subdivision three of this section or that any cable television company is in violation of an order issued by the commission pursuant to section eight hundred twenty-four of this article requiring adequate service, it may issue an order requiring the municipality *and the cable television company* to provide for new rates which are non-discriminatory and non-preferential or reduced to reflect the inadequate service, as the case may be.

§ 5. Paragraphs (a) and (b) of subdivision five of section eight hundred twenty-five of such law, as added by such chapter, are hereby amended to read, respectively, as follows:

(a) existing rates have been found discriminatory or preferential and, after reasonable opportunity, the municipality [has] *and the cable television company have* not provided for new rates which are non-discriminatory or non-preferential, as provided in subdivision four of this section;

(b) a cable television company is in violation of an order issued by the commission pursuant to section eight hundred twenty-four of this article requiring adequate service and, after reasonable opportunity, the municipality [has] *and the cable television com-*

pany have not provided for new rates reduced to reflect the inadequate service, in which case the commission may require appropriate rate reductions;

§ 6. Subdivision one of section eight hundred twenty-six of such law, as added by such chapter, is hereby amended to read as follows:

1. No cable television *company*, notwithstanding any provision in a franchise, may abandon any service or portion thereof without having given six months' prior written notice to the commission and to the franchisor, if any, and to the municipalities it serves.

§ 7. Paragraph b of subdivision one of section eight hundred twenty-eight of such law, as added by such chapter, is hereby amended to read as follows:

b. demand or accept payment *from any tenant*, in any form, in exchange for permitting cable television service on or within his property or premises, *or from any cable television company in exchange therefor in excess of any amount which the commission shall, by regulation, determine to be reasonable*; or

§ 8. Section four of such chapter is hereby renumbered to be section five, and as thus renumbered is hereby amended to read as follows:

§ 5. This act shall take effect January first, nineteen hundred seventy-three, *except that the provisions of section three of such chapter shall take effect immediately.*

§ 9. Such chapter is hereby amended by adding thereto a new section, to be section four, to read as follows:

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§ 4. Notwithstanding the provisions of subdivision two of section eight hundred seventeen of the executive law, as added by section one of this act, pertaining to the date on which the estimate of the commission's costs and expenses shall be made, the state commission on cable television may estimate its costs and expenses for the period from January first, nineteen hundred seventy-three to and including March thirty-first, nineteen hundred seventy-four, or any portion thereof, and may bill any cable television company for such costs and expenses at such time or times as it deems appropriate.

§ 10. This act shall take effect on the same date as a chapter of the laws of nineteen hundred seventy-two, entitled "An Act to amend the executive law, in relation to the creation of a state commission on cable television, prescribing its functions, powers and duties and making an appropriation for its expenses and the general municipal law, in relation to extending provisions relating to franchising", as amended by section eight of this act.

Ch 88

STATE OF NEW YORK

9147

IN ASSEMBLY

January 30, 1974

Introduced by Mr. ROSS—Multi-Sponsored by—Messrs. BOLAND, LASHER—read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT

To amend the executive law, in relation to certificates of confirmation for nonfranchised cable television systems

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision eight of section eight hundred twenty-one of the executive law, as added by chapter four hundred sixty-six of the laws of nineteen hundred seventy-two, is hereby amended to read as follows:

§ 8. The commission shall issue a certificate of confirmation, valid for a five year period, to any cable television company engaged in actual and lawful nonfranchised cable television operations on [January] *April* first, nineteen hundred [seventy-two] *seventy-three*, if application for such a certificate is made to the commission [on or before July first, nineteen hundred seventy-three] *on or before September first, nineteen hundred seventy-four.* Notwithstanding any other provisions of this article, any such

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

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company which files such an application may continue to operate within the limits of the area in which it was actually rendering service on April first, nineteen hundred [seventy-two] *seventy-three*, as determined by the commission. Such a certificate of confirmation may be renewed by the commission on application for five year terms pursuant to the provisions of section eight hundred twenty-two. *Any such company which fails to file an application pursuant to this section on or before September first, nineteen hundred seventy-four, shall thereafter be prohibited from continuing operation of a nonfranchised cable television system; provided, however, that the commission may authorize such continued nonfranchised operation in extraordinary circumstances for such periods as the commission may deem appropriate.*

§ 2. This act shall take effect immediately.

Ch 87

STATE OF NEW YORK

9138

IN ASSEMBLY

January 30, 1974

Introduced by Mr. DOKUCHITZ—Multi-Sponsored by—Messrs. T. J. MURPHY, TILLS, BETROS, KREMER, STELLA, SHAROFF—read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT

To amend the executive law, in relation to approvals by the commission on cable television of transfers, renewals, or amendments of franchises and transfers of control over franchises and system properties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions two and three of section eight hundred twenty-two of the executive law, as added by chapter four hundred sixty-six of the laws of nineteen hundred seventy-two, are hereby amended to read, respectively, as follows:

2. A person wishing to transfer, renew or amend a franchise, or to transfer control of a franchise or of a substantial part of the facilities thereof shall file with the commission an application for approval of such change, in such form and containing such information and supporting documents as the commission may

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

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require. The application shall be accompanied by proof of service thereof upon the [franchise or] *franchisor*, if any, and by such fee as the commission may set. The commission may hold a public hearing on any such application as set forth in subdivision two of section eight hundred twenty-one.

3. The commission shall approve the application unless it finds that the applicant, [or in the case of a transfer application,] the proposed transferee or the cable television system does not conform to the standards embodied in the regulations promulgated by the commission pursuant to section eight hundred fifteen or that approval would be in violation of law, any regulation or standard promulgated by the commission or the public interest; *provided, however, that a failure to conform to the standards embodied in the regulations promulgated by the commission shall not preclude approval of any such application if the commission finds that such approval would serve the public interest.*

§ 2. This act shall take effect immediately.

Ch. 441

STATE OF NEW YORK

9137

IN ASSEMBLY

January 30, 1974

Introduced by Mr. DOKUCHITZ—Multi-Sponsored by—Messrs. ROSS, BETROS, TILLS, MANNIX, GRUNE, LASHER, WEPRIN, SHAROFF, STELLA—read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT

To amend the executive law, in relation to establishing forfeitures for failure to comply with orders of the commission on cable television or for violation of applicable statutes or regulations, and providing for the recovery of such forfeitures

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The executive law is hereby amended by adding thereto a new section, to be section eight hundred twenty-seven-a, to read as follows:

§ *827-a. Forfeiture. 1. Every cable television company, and all officers, agents and employees of any cable television company shall obey, observe and comply with every order, direction or requirement made by the commission, under authority of this article, so long as the same shall be and remain in force. Except as provided in subdivision two of this section, any cable television company*

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

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which shall violate any provision of this article, or which fails, omits or neglects to obey, observe or comply with any order or any direction or requirement of the commission, shall forfeit to the people of the state of New York a sum to be set by the commission not to exceed one thousand dollars for each and every offense; every violation of any such order or direction or requirement, or of this article, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be a separate and distinct offense.

2. Notwithstanding subdivision one of this section, any cable television company which (a) shall fail to make and file its annual report as and when required or within such extended time as the commission may allow, or (b) shall fail to make specific answers to any question within the period specified by the commission for the making and filing of such answers, or (c) shall fail to submit such special reports as the commission may from time to time require, within the period specified by the commission for the submission thereof, shall forfeit to the state the sum of one hundred dollars for each and every day such company shall continue to be in default with respect to such annual report, answer, or special report.

3. An action to recover a forfeiture under subdivisions one or two of this section may be brought at any time within one year after the cause of action accrues, in any court of competent jurisdiction in this state, in the name of the people of the state of New York, on the relation of the commission, and shall be commenced and prosecuted by counsel to the commission. In any

such action all forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture. All monies recovered in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law.

Ch 528

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STATE OF NEW YORK

8972

IN SENATE

March 4, 1974

Introduced by Sen. ACKERSON—read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT

To amend the executive law, in relation to the assessments of cable television companies for the costs and expenses of the commission on cable television

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section eight hundred seventeen of article twenty-eight of the executive law, as amended by chapter four hundred sixty-seven of the laws of nineteen hundred seventy-two, is hereby amended to read as follows:

2. On or before [December] *May* first of each year, the commission shall estimate the total costs and expenses necessary to operate and administer the commission for the [next ensuing] *current* state fiscal year, including the repayment of any first instance appropriations outstanding on March thirty-first immediately preceding such fiscal year. The commission shall, at such time or times and pursuant to such procedure as it shall determine by regulation,

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bill and collect from each cable television company the greater of (i) one hundred dollars or (ii) an amount computed by multiplying such total estimated operating expenses of the commission by a fraction the numerator of which is the gross annual receipts of such cable television company during such twelve month period preceding the date of computation as the commission shall designate by regulation, and the denominator of which is the total gross annual receipts of all cable television companies operating in the state during such period. A cable television company may elect to make partial payments *equal to one quarter of the total amount billed* [for such costs and expenses] on [March thirty-first,] June thirtieth, September thirtieth [and], December thirty-first [of each year] *and March tenth of the fiscal year to which the billing relates.* On or before September fifteenth of each year, the commission shall compute the actual costs and expenses of the commission for the preceding state fiscal year and shall, on or before October fifteenth of such year, send to each cable television company a statement setting forth the amount due and payable by, or the amount standing to the credit of, such cable television company computed on the basis of the above stated formula, except that for the purposes of such computation the fraction shall be multiplied against the total actual operating expenses of the commission for such fiscal year. Any amount owing by any cable television company shall be payable not later than thirty days following the date of such statement. Any amount standing to the credit of any cable television company shall be applied as a credit against any succeeding payment due. In no event shall the amount billed to or collected from any cable

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television company pursuant to this section exceed one percent of the gross annual receipts of such company during the twelve month period designated by the commission.

§ 2. This act shall take effect on November thirtieth, nineteen hundred seventy-four; provided, however, that any bills transmitted pursuant to section eight hundred seventeen of the executive law prior to such date shall be governed by and collected in accordance with the terms of such section prior to the amendment thereof by this chapter.

Ch. 442

STATE OF NEW YORK

12458

IN ASSEMBLY

May 7, 1974

Introduced by Committee on Rules -(at the request of the Commission on Cable Television) -read once and referred to the Committee on Rules

AN ACT

To amend the executive law, in relation to the procedure for recovering forfeitures from cable television companies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section eight hundred twenty-seven-a of the executive law, as added by a chapter of the laws of nineteen hundred seventy-four, entitled "An Act to amend the executive law, in relation to establishing forfeitures for failure to comply with orders of the commission on cable television or for violation of applicable statutes or regulations, and providing for the recovery of such forfeitures", is hereby amended to read as follows:

3. An action to recover a forfeiture under subdivisions one or two of this section may be brought at any time within one year after the cause of action accrues, in any court of competent jurisdiction in this state, in the name of the people of the state of New York, on the relation of the commission[, and shall be commenced and prosecuted by counsel to the commission]. In any such action all forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture. All

Explanation: Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

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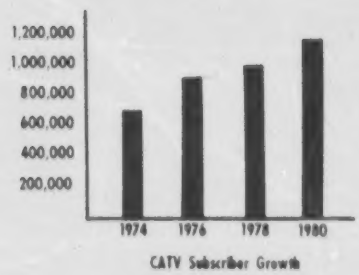
monies recovered in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund.

§ 2. This act shall take effect on the same date on which a chapter of the laws of nineteen hundred seventy-four, entitled "An Act to amend the executive law, in relation to establishing forfeitures for failure to comply with orders of the commission on cable television or for violation of applicable statutes or regulations, and providing for the recovery of such forfeitures", shall become effective.

(NOTE: This bill was prepared under the direction of the New York State Commission on Cable Television and was introduced at its request.)

Cable television: Some Planning Procedures*

From the beginning of the Renaissance until the beginning of the 19th Century man's total body of factual knowledge doubled. From 1800 to 1850 man's total available basic information doubled again. Beginning in the 1940's and up until the 1960's we found another doubling of available basic factual information. In the middle of the 1960's informed educators tell us that the rate of basic rote content information doubling is about every 6 1/2 years. Based on these facts it is easy to project that the student who enters school for the first time this year will have undergone an information out-moding by the time he reaches the seventh grade. There are many suggestions as to how we can prevent this, how we can deliver more learning of basic information to the average student. One of these methods of delivery of information is by cable television.



CATV Subscriber Growth

Presently there are 700,000 subscribers to cable television in New York State. Within five years this number of subscribers will increase at the rate of 10 percent a year to one million fifty thousand, an increase of approximately 70,000 per year.

These citizens presently live in 600 communities in New York State.

*From remarks before the professional staff of the New York State Education Department, September 23, 1974. (By Chauncey Berdan and Bernarr Cooper.)

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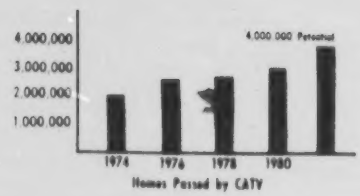
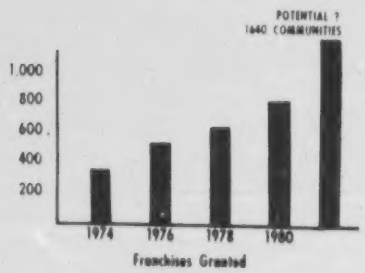
By 1980, 900 communities will have cable television service out of a total potential of more than 1600 communities which may grant franchises.



Cable television is now available in 2 million homes in New York State. Total potential numbers of homes is 4 million. By 1985, at least 75 percent of the 4 million homes will be interconnected.



Four years ago, New York State led the nation with 180 cable systems in the State. Today there are 384 CATV systems franchised and these pass some 2 million homes.

Educational Uses

What do we now know about the educational use of cable television in the State of New York? In 1973, according to the BEDS survey, (the Basic Educational Data Systems survey) of the State Education Department,

- The total number of students in elementary and secondary schools viewing cable television was 787,303;
- The percentage of all students of the State having the option to view education by television was 19.06 percent;
- The total number of public schools that had available to them cable television was 1,112;

. The number of school districts that were affected by the availability of CATV was 338;

. More than 50 percent of all school districts of the State and more than 17 percent of 211 schools had the option to use this vital tool of cable television for disseminating instructional and informational services to their student body.

CATV
BEDS Survey 1973

Total Students Viewing	787,303
% having Option	19.06
Number of Affected Schools	1,112
Number of Affected Districts	338
% of Districts having Option	50.70
% of Schools having Option	17.43

The Bi-Directional Educational Uses of Cable Television

One of the major objectives of the educational process is to provide for a means of exchange of opinion, ideas, and (literally) questions and answers between the learner and the instructor. In order that nothing shall get in the way of this two-way means of exchange it is apparent that one of the major contributions that can be made by cable television is a multi-faceted use of it. In other words: the capability of CATV is to disseminate information for a receiver to react and respond to, or to ask questions for further clarification until the teaching/learning process is completed. This method of using CATV has been referred to as the "bi-directional" or two-way use of cable television -- information flowing from a source and responses flowing back.

Among the potentials for increasing the bi-directional

use of cable for educational need are the following:

- High School Equivalency for the adult;
- GED (General Education Development) materials can be disseminated in a bi-directional manner, giving the learner an opportunity to respond or to reinforce his understanding of new concepts;
- In addition, adult basic education for the low literacy adult can be disseminated in this way for learning basic reading and writing skills;
- Non-credit courses may be made available in this way, such as "how-to" courses, instructions in building or constructing objects, or other types of manipulative skills;
- Non-credit courses in music, art appreciation and a whole host of other areas can also be offered in this way;
- Another vital offering can be in areas of vocational and technical skills. This could include the retraining of the employables, updating those skills which have become outmoded;
- Paraprofessional training courses can also be offered such as in the medical, engineering and public service professions;
- A major use for bi-directional cable television can be for credit granting in the external degree program or in other self-learning programs, especially those

programs conceived with adult life-long learning in mind;

. Education of the severely handicapped, particularly those that are homebound, can reach a new high in disseminating services through cable television. One important and interesting project has already been funded by the Federal Government. This is a project that will be under the administration of Ray Simches, the Assistant Director for Handicapped Children, of the Education Department. Particular direction of this project will be by James Marillo. The project will be operated in the Buffalo area. Eight channels of the Amherst cable system will be used. One hundred experimental homes will be served and the Mitre Corporation will do the character generation for use with a computer program which is to be part of the experiment. Opportunities for learning by the severely handicapped will thus be enhanced, and the results of the project will be carefully monitored for possible reapplication in other parts of the State of New York and the Nation as a whole;

. but the severely handicapped are not the only homebound who can benefit from the use of two-way cable television. There are those who are permanently or temporarily ill, particularly those students who

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attend school regularly but who, because of illness or severity of weather, are temporarily unable to reach their classroom. These, too, can be instructed via bi-directional cable television. The blind who need receive only audio channels via a cable television system can also receive information, training, direct instruction or any of a number of cultural educational offerings;

. There are also the obvious potentials for using cable television for in-service retraining in the fields of law, medicine or nursing. Faculties and administrators can find inter- and intra-institutional use of such bi-directional capability of CATV to be of great service to the educational community as a whole. Such a planned use of a cable television system can be started as part of the cable franchising procedure.

Franchising Procedures

Cable television is an excellent opportunity for citizens to become involved with telecommunications, many for the first time.

All too often the community has merely reacted to proposals and franchises after they have been awarded to a CATV firm by the municipal government.

A carefully considered plan of action is essential to insure the best CATV development for your community. The municipal government may provide the thrust to consider the

development of CATV in the following manner.*

. Insuring the best CATV design for the community is through the Advisory Committee;

. The Advisory Committee should be representative of all areas and interests of the community. Ample notification about the formation of the committee is necessary for adequate citizen response,

. Major responsibilities of the Advisory Committee during the pre-franchising period shall be to:

1. Inform themselves and the community about CATV.
2. Analyze the type of services needed by the community and the economic costs of such services.
3. Prepare and submit a final written report to the municipal government.

The report should be considered at a public hearing, which is required by the State Cable Commission.

The final report should contain:

1. The types of system best suited to the needs of the community.
2. A document entitled: "Request for Proposals" (RFP).

*For detailed explanation refer to the New York State Cable Commission's Franchising Procedures.

The RFP contains specifications or requirements for the CATV bidding company. It should also describe the kind of services to be brought to the community.

Among the essentials of the RFP are:

- Utilization of the educational channel;
- Utilization of the public access channel;
- Utilization of the local government channel;
- Additional lease channels;
- Imported channels, local and distant;
- FM signals,
- Amount of application fee.

To allow for still more citizen expression which could result in additions or deletions of expected service requirements, another public hearing should be held.

The municipality shall invite applications for a franchise by means of a public notice advertising the availability of its "Request for Proposals."

- If more than one CATV firm applies, the city fathers then enter into negotiations to determine which firm will be suitable to meet the needs of the community;
- The municipality should investigate and assess the technical ability, financial condition and character of each applicant;
- Another public hearing is necessary prior to the awarding of the franchise to allow for complete participation of any citizen and all applicants,
- Award franchise.

The reasons for the selection of the franchise should be made available to the public.

The services provided to the community depend upon:

- The degree of sophistication which the city fathers have achieved based upon the guidance offered by the Advisory Committee;
- The concern of the CATV applicants for community needs, and
- The interest exhibited by the community, particularly before the ordinance is passed and prior to the awarding of the franchise.

The services provided to the community depend upon:

- The degree of knowledge about CATV which the city fathers have achieved with the help of the Advisory Committee;
- The concern of the CATV applicant for community needs, and the way in which he proposes to satisfy those concerned; and,
- The interest exhibited by the community, during the public hearings before the franchise is awarded.

The following section contains two possible Requests For Proposal for cable franchises. These are usually sent to both cable systems and the press by the town or city planning to franchise a cable system. The plan for the Town of Greenport was prepared by the Coffin, Inman, and Christiana, attorneys at law, with the much appreciated help of Marc Block.

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REQUEST FOR PROPOSALS

TOWN OF GREENPORT, COLUMBIA COUNTY, NY

The Town of Greenport in Columbia County, New York seeks applications for a cable television franchise. The population of Greenport is 3,686 (1970 census). The boundaries of the authorized franchise area will be the established boundaries for the Town of Greenport.

The Town of Greenport is located within 35 miles of the Albany-Schenectady-Troy television market. As this is a "major television market" as defined by the Federal Communications Commission, any cable system operating in Greenport must comply with all pertinent Federal Communications Commission regulations and technical specifications.

All applications for cable television franchises will be prepared and submitted in accordance with this Request for Proposals. Franchising procedures will be conducted in accordance with the Rules of the New York State Commission on Cable Television and the franchises will be drawn in accordance with those rules.

All applications will be accompanied by a non-refundable certified check in the amount of $25 made payable to the Town of Greenport. The successful applicant will be required to reimburse the Town for the cost of advertising. The closing date for the receipt of applications is March 29, 1974.

All applications must be notarized.

All applications must contain the following information as required by the rules and regulations of the New York State Commission on Cable Television. This information will be presented and numbered as below:

I. A statement indicating the applicant's experience in the cable television field, which statement shall include the names and experience of the persons who will be directly responsible for the construction, installation, and operation of the proposed system;

II. If the applicant proposes to provide locally originated programming (including access programming), the statement shall explain how the applicant's equipment and personnel will be utilized in providing such programming;

III. A statement indicating whether the applicant or any of its principals owns or operates any other cable television system, newspaper, radio station, or broadcast television system, directly or indirectly, and a statement indicating the name of any such operation(s) and the name and address of the chief executive officer(s) of the franchising authority(ies) in which such system or station is located;

IV. A documented plan for financing the proposed system, which plan shall indicate, specifically, every significant anticipated source of capital and any and all limitations and or conditions with respect to the availability of the indicated sources of capital;

V. A statement indicating whether the applicant or any of its principals (which, in the case of a corporation shall include all officers,

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directors, and persons having a legal or equitable interest in five percent or more of the voting stock):

a. has ever been convicted of a crime involving moral turpitude (including criminal fraud) or is presently under an indictment charging such a crime;

b. has ever been held liable by any court of competent jurisdiction in any civil action based on fraud, deceit, or misrepresentation; or

c. has ever been punished or censured in any jurisdiction for any violation or attempted violation of any law, rule, or order relating to cable television operations.

If the statement is affirmative with respect to any of the above-mentioned adverse considerations, the applicant should include in the statement such explanatory material as it deems appropriate.

Section Two

This Section (items A through H) indicates specific aspects of the cable television system desired by the Town of Greenport. The Town requires that all applicants address themselves to the following specific requests and requirements and that responses be dealt with and numbered as the items appear below. Applications may contain any additional information deemed pertinent, but all applicants must address themselves to the following items:

A. Channel Capacity.

The cable system to be built in the Town of Greenport must have at least a 20 channel capacity as enumerated in Section 76.251 of the Federal Communications Commission rules and regulations on cable television. The Town will require 12 channels to be energized immediately.

B. Signal Carriage.

As per Section 76.61 of the Federal Communication Commission rules and regulations, a cable television system franchised in the Town of Greenport must carry the following television signals:

Channel 6	-	WRGB
Channel 10	-	WTEN (or Channel 19 - WCDC)
Channel 13	-	WAST
Channel 17	-	WMHT

In addition, the Town is desirous of receiving the following distant commercial signals:

Channel 9	-	WOR - New York City, NY
Channel 11	-	WPIX - New York City, NY
Channel 38	-	WSBK - Boston, MA or
Channel 56	-	WKBG - Boston, MA
Channel 13	-	WNET - New York City, NY

C. System Design.

1. The applicant shall indicate proposed locations for any antennae and headend(s).

2. The applicant shall indicate plans for two-way capability, if any.

D. Local Origination and Access Cablecasting.

The Town of Greenport is interested in establishing a

communication center at the Columbia-Greene Community College located within the Town. The College is located on Conway Road off New York State Route 23. The Town of Greenport would like the College to be given the capability of originating local programming on a live or video tape basis.

Any cable television system operating in Greenport must provide the three access channels. The cable television system will also provide the requisite equipment and facilities necessary for the production of programming for the public access channel.

While the Town of Greenport does not require the successful applicant to produce its own local origination programming, the Town would like the successful applicant to provide a local origination channel so that commercial cable casting may be conducted.

E. Service to Educational, Charitable, Religious and Governmental Institutions.

The successful applicant will supply a free cable drop, and will not charge a monthly fee for service to all educational, charitable, religious and governmental institutions as soon as distribution cable is installed within 1,000 feet of the land upon which such institution is located.

F. Construction Plan.

The Town of Greenport is interested in having a cable extended to all areas of the Town as soon as possible. For construction purposes, the Town has designated a primary service area and a secondary service area. The primary service area shall be bounded by Stockport on the North; on the East by the most easterly of Union Turnpike, Ten

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Broek Avenue and Becraft Avenue; on the South by the most southerly of Route 23 B and Columbia Turnpike; and on the West by the most westerly of the City of Hudson, Joslen Boulevard and Riverview Boulevard. The secondary service area shall encompass the remainder of the Town.

In addition, the Columbia-Greene Community College shall be designated as a primary service area.

The cabling of the primary service area shall begin immediately upon the cable company's receipt of a Certificate of Confirmation from the New York State Commission on Cable Television. The primary service area shall be completely cabled within 14 months of the grant of the franchise.

The Town is interested in soliciting suggestions from the applicant on plans to wire the secondary service area. The Town will require every area requesting service to be cabled within five years of the granting of the franchise.

G. Rates.

Applicants shall indicate the proposed rates for the following services:

1. Installation Charges (First set and additional sets);
2. Monthly Charges (First set and additional sets);
3. Reconnection Charges;
4. Premium Programming Charges;
5. Any other charges which the applicant intends to impose.

H. Franchise Fee.

The Town will require 3% of the gross revenues for its franchise.

Applicants wishing further information may contact Harold E. Van Tassel, Town Supervisor, Greenport Town Garage, Route 9, Hudson, New York, 12534. Telephone number 518-828-1644.

FINAL REPORT TO THE TOWN BOARD OF NORTH GREENBUSH

as prepared by

THE CABLE TELEVISION ADVISORY COMMITTEE

TOWN OF NORTH GREENBUSH, NEW YORK*

*Reprinted with the permission of the Advisory Committee on Cable Television of the Town of North Greenbush.

The Cable Television Advisory Committee of the Town of North Greenbush, Rensselaer County, New York, having studied the needs of our community and the possibilities inherent in cable television technology recommends to the Town Board that proposals be sought for the installation of a cable television system in our town.

We desire a system built with the finest and most advanced equipment available, capable of consistently delivering a picture of high quality. We want a company to serve us that will be responsive to the changing needs of our community, and that will cooperate with us in serving the needs of our residents. We want a company that is innovative in seeking out and installing new techniques as they are introduced on the market; a company that will act as a partner with us and with individuals and groups within the town in helping teach them how to utilize the public channels that will be available. We want a company that is in a position to install the system quickly and once installed to maintain it in good working order.

We feel that the attitude of the company officials in establishing a harmonious working relationship with our town officials and common citizens in a mutually profitable venture, is just as important as the technical perfection of the system.

In the following requirements and requests we are attempting to obtain such a system.

RECOMMENDED LETTER TRANSMITTING "REQUEST FOR PROPOSALS"

TOWN OF NORTH GREENBUSH

P. O. BOX 38

WYNANTSKILL, NEW YORK 12198

To Whom It May Concern:

The Town of North Greenbush takes pleasure in inviting your firm to present a proposal for a cable television system to serve the citizens of this Town. In preparing such a proposal, your firm should attempt to develop an innovative package combining the presently available substantial broadband communications with features permitting expansion of facilities and services expected to be available in the future. Informational and educational aspects will be given substantial weight in evaluation of all proposed systems.

All proposals will be reviewed in light of the number and quality of services offered to the citizens of the Town. The companies offering the best feasible service packages to the greatest number of subscribers at lowest cost to the subscribers will be designated by the Town to participate in a negotiation process with representatives of the Town designated by the Town Board. The intent of the negotiations will be to improve and refine the service packages offered. At the end of the negotiation process, one finalist will be selected. The details of the franchise will then be mutually agreed upon and presented to the Board in the form of an ordinance to be adopted. While it is anticipated that one franchise will be awarded, the Town reserves the right to reject all proposals or to accept more than one, as it deems appropriate and in the best interest of its citizens.

We hope that your firm will submit a proposal. Pertinent requirements and other information are included in the enclosure headed "Request for Proposals." If you have any questions regarding the procedure or required provisions, please do not hesitate to telephone William Blom, Chairman of the Town's Cable TV Commission, or me at the numbers listed on the enclosure.

Sincerely,

James Van Auken
Supervisor

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REQUEST FOR PROPOSALS

Characteristics of the Town of North Greenbush:

The Town of North Greenbush, governed by Suburban Town Law, is situated in the Hudson Valley region about three miles northeast of the Capitol city of Albany. Located in the Albany, Schenectady, Troy Standard Metropolitan statistical area, with a combined population of slightly under 1,000,000, it is part of the 42nd largest television market area in the United States. Bordered by the cities of Troy and Rensselaer and the Towns of East Greenbush, Sand Lake, Brunswick and Poestenkill, North Greenbush has a land area of approximately 39 square miles and a total of 73 miles of streets and highways. Its 11,000 residents dwell in about 3,500 homes or apartment units located in several densely populated areas along with those in rural surroundings. The average population per mile is 144 in 48 households. The Capitol district planning Commission publication Housing in the Capitol District Region 1970-1990 describes North Greenbush as a "direction of major expansion in residential settlement."

PART A: DESIRED FEATURES OF FRANCHISE PROPOSALS

I. CONSTRUCTION AND INSTALLATION

A. Construction shall begin within 90 days of the final approval of the franchise application by the New York State Cable Television Commission.*

B. Construction shall follow a schedule submitted to the Town Board and jointly agreed upon outlining what sections of the town are to be built in sequence and proposed completion dates for each section.

C. 50% of the original system must be built and energized within one (1) year of the beginning date and the remainder within another year.

D. The first section of the system must be turned on within 180 days of the beginning date of construction, representing 25% of the total.

E. 1. It is our desire that all households in this town be provided service upon request.

2. Any new customer must be provided service within 60 days of his request for it.

F. 1. The lines shall be placed upon public utility poles wherever such poles are available and shall run along public rights of way whenever possible.

2. Whenever the public utilities facilities are underground the cable company's lines must also be. To facilitate the common undergrounding of lines the Public Service Commission rules require that the utilities notify the cable companies operating in their area of all new developments they will be entering. It is incumbent upon the cable company to notify the public utilities operation of the Town of North Greenbush of its franchise area and its desire to be notified in advance of all proposed underground construction. To further facilitate common undergrounding the Town of North Greenbush will not issue a building permit to any developer whose plans include the developer's written consent to allow the cable company entry with the utility companies without the requirement of a payment.

*This paragraph should also provide for request of a certificate of compliance from the Federal Communications Commission after approval of the franchise application by the N.Y.S. Commission on Cable Television. Construction cannot begin until after the receipt of the certificate of compliance.

G. In the installation of cable to residents the desires of the subscriber should be heeded, whenever practicable as to the entry point and the interior lines should be as unobtrusive as possible.

H. The company will maintain a studio for origination cablecasting at a place of the Town's choosing and provide suitable equipment. The company will also provide additional origination capability at points to be specified by the town.

OPERATION

A. 1. The system shall have at least a 30-channel capacity with four channels set aside: one for the government of the Town of North Greenbush, one for educational uses, one for origination broadcasting and one for public access.

2. We request that three additional channels be set aside, one each to be utilized for 24 hour news and weather reporting and for a programming guide.

3. It is our desire that the company extend to the town the aid of its technical people in helping us to utilize the government, educational and public access channels.

4. It is our hope that the company will do origination broadcasting.

5. In allocating programming on the public access channel the company shall grant time on a first come first served basis except that the company shall attempt to grant time to as many different persons or groups as possible. To allow for the fullest freedom of expression the programming shall be free from any control or censure by the company except that the company will have the right to make reasonable rules for the previewing of programming for the purpose of preventing the showing of obviously pornographic material. If there is any question in this regard the Town Board shall offer its services in reviewing the material with the company in making the above determination.

The company must utilize its facilities and manpower free of charge in producing the first five minutes of each public access

broadcasting sequence. If the broadcasting parties wish to utilize the company's facilities beyond that, the company shall have them available and offer them at cost price or less.*

6. The system shall also provide for FM radio broadcasting.

B. The system shall have 2-way digital capability and shall be utilized in this manner as soon as a plan for such utilization is mutually agreed upon or as soon as any other system in operation within a 50 mile radius of the State Capitol Building in Albany, New York is utilizing such a system, whichever occurs first.

C. The technical quality of the signals shall meet FCC and New York State Cable Television Commission minimum specifications.

D. The company shall offer "Pay TV" to its subscribers in North Greenbush as soon as it becomes available on a regular commercial basis in any other franchised area of the company's system. In this section by "company" we mean the immediate operating company or if part of an MSO (Multiple System Operation) system any part of the larger system.

E. It is desired that the system be so built that it is mechanically capable of interconnection with any adjacent system upon 180 days notice so that locally produced programs eminating from any system within the Capitol District area, of general interest to Capitol District residents, may be seen simultaneously throughout the area.

*Once a cable system is functional, one of the ongoing functions of an Advisory Committee is to provide to the cable management continuing services for the programming of the access channels. For example: the Federal Communications Commission has made it clear that the intent of an access channel for educational purposes indicates that such a channel must be equally available to all of the educational interests of a community. "Our concept of 'educational authority' was not meant to restrict the use of this channel to the local public school board. Any school, college, or university, public or private, formal or informal, should have the opportunity to air programming on this channel . . . ." An alert Advisory Committee would help organize the educational and public service uses of access channels, providing aid and guidance to establish the ground rules for programming those channels. The Advisory Committee might also help the administration of a cable service to set up the required rules for the use of such channels.

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F. The company shall provide an emergency alert system whereby upon notification by appropriate officials, all viewers will be directed to tune to the government channel for details of the emergency.

MAINTENANCE

III. A. The company shall maintain a staff of competent technicians to repair any breakdown in service and keep it in good operating order.

B. The company shall respond to all service calls within 24 hours and correct malfunctions as soon as possible, in all events within 72 hours after notice thereof. These rules may be waived by the Town Board in the event of disasters or emergency situations within the Town.

C. The company shall maintain a log of all complaints and repair calls keeping a record therein of the time and date of the notice and the time and date and nature of its response.

D. The company shall keep a toll free phone available 24 hours a day for complaint and repair calls. During some of this time the phone may be manned by a recording device.

E. Except when an emergency exists the company may interrupt service only during periods of minimum use for the purpose of repairing or upgrading the system and then only after 24 hour minimum notification to subscribers.

F. In the event a subscriber is without service for over 72 hours because of a breakdown, he shall be charged a pro-rated share of his monthly rate for that period of time.

G. A subscriber's service shall not be terminated because of non-payment of his bill until 72 hours after he has given written notice of intent to terminate.

IV. SUPERVISION AND REGULATION

A. The Town shall have the right to inspect the system during the construction period and any time thereafter to insure that it is being constructed and maintained in accordance with good industry standards and all state and federal laws and regulations and shall have the right to order corrections of any violations found.

B. No construction, reconstruction or relocation of the system or any part thereof located on a public right of way may commence without the company first obtaining a permit from the proper town official.

C. The company shall be responsible for restoring any streets, sidewalks, lawns or other property they find it necessary to disrupt, to their original condition or as nearly as is practically possible within 30 days after such disruption. The Town shall have the obligation to see that this provision is carried out and to arbitrate any disputes which shall arise thereunder.

D. The Town shall have the right to check the company's complaint and repair log at any time, given 24 hours notice. In the event a disagreement arises between a subscriber and the company which cannot be settled without intervention, the town shall be obliged to arbitrate the matter and the parties involved shall be bound by the town's final decision. Such decision shall be arrived at after proper hearing of both parties.

V. RATES

A. Any company offering a proposal shall submit its complete schedule of suggested rates which shall be negotiable.

B. The rates shall be non-discriminatory.

C. The company shall supply free connections to points specified by the town.

VI. FEES

A. The company will pay the Town a fee equaling at least 3% of their gross subscriber revenues. The fee shall be payable quarterly and is due by the end of the month following the quarter for which it is being paid.

VII. REPORTS

A. The company shall submit a report to the town with every fee payment showing how it arrived at the amount of the fee.

B. The company shall submit a report yearly, which must coincide with its income tax return due date, showing a profit or loss statement in the same detail as it does for income tax purposes. The company may at its discretion meet this requirement by supplying the Town with a copy of its income tax statement. This statement must be for its operation in the Town of North Greenbush only, if it is operating the system here as part of a larger system, and does not keep certain of its financial records separately, it must break them out for this purpose.

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C. The company must furnish progress reports to the Town every 60 days during the construction period continuing until the entire original system is built and turned on. These reports must contain details of what construction was accomplished during these 60 day periods.

VIII. BOOKS AND RECORDS

A. The company shall maintain an office within 25 miles of the seat of town government where all notices, orders and requests may be served and delivered.

B. The company must keep complete and accurate financial and engineering records and books of its North Greenbush operations in its office.

C. The Town Board or its officially designated representative shall have complete access to these records and books, upon 24 hour notice, and may properly request that the company bring them to the town offices for inspection, at the discretion of the Town Board.

D. The Town may examine any company officer under oath with respect to the correctness or accuracy of any company record or report, upon written notification.

IX. SECURITY DEPOSIT AND PERFORMANCE BOND

A. 1. The company shall deposit a sum of $5,000 into a separate bank account, established jointly by the Town and Cable operator, in a bank in Rensselaer County, at the time it signs the franchise agreement. Said amount shall remain on deposit during the entire term of the franchise, and shall be used exclusively to pay any penalties levied against the company. The company shall furnish proof of this deposit to the Town.

2. Whenever the security deposit falls below $5,000 it must be brought up to that amount within 30 days.

B. The franchisee shall post a performance bond of $20,000 in favor of the Town before the start of construction or within 30 days of receiving award of the franchise, whichever comes first. Such bond shall be maintained by the company during the life of the franchise. Proof of such bond shall be furnished by the Town upon purchase thereof.

X. PENALTIES

A. The following penalties may be levied against the company to come out of its security deposit at the discretion of the town:

1. For failure to submit construction reports as provided for in Section VII C: $10 a day for each day overdue;

2. For failure to submit its annual financial report as provided in Section VII B: $50 a day for each day overdue;

3. For failure to submit a report with its fee payment as provided in Section VII A: $20 a day for each day overdue;

4. For failure to submit its fee as provided for in Section VI A: $50 a day for each day overdue;

5. For failure to provide access to its book and records as provided in Section VIII C: $20 a day for each day of refusal or delay;

6. For failure to allow its company officers to be examined under oath as provided in Section VIII D: $500 for each failure to appear;

7. For failure to begin construction as provided in Section IA: $50 a day;

8. For failure to meet the terms of Section I C: $20 a day;

9. For failure to meet the terms of Section I D: $25 a day;

10. For failure to provide service as described in Section I E 2: $10 a day per customer;

11. For failure to provide service as delineated in Sections II B, C, D, and E: $10 a day in each case.

12. For failure to provide service as described in Section III B: $5 a day per customer;

13. For failure to comply with Section III E: $100 a day;

14. For failure to comply with Section III F and G: $5 a day per customer;

15. For failure to comply with Section IV B: $50 for each occurence;

16. For failure to comply with Section IV C: $500 plus damages for each violation;

17. For failure to maintain its security deposit as required in Section IX A 2: $100 a day;

18. For failure to have a valid performance bond in effect: $100 a day.

B. The company's performance bond may be forfeit at the discretion of the Town under the following conditions:

1. If the company fails to begin construction within 180 days of the final approval of the franchise application by the FCC or the State Cable Commission, whichever comes first;

2. If 50% of the system is not built and energized within 1 year and 180 days or if the entire system is not built and energized within 2 years of the final approval of the franchise application by the FCC or the State Cable Commission, whichever comes first;

3. If the company fails to provide insurance as provided in Section XI;

4. If the franchise is cancelled.

XI. LIABILITY

A. The company must indemnify and hold the town harmless from all liability, damage, costs or expense arising from claims for injury to persons or damage to property occasioned by reason of any conduct undertaken by reason of any franchise resulting from this request for proposal.

B. Before commencing construction, the company shall file with the Town Board and maintain on file throughout the term of the franchise, a liability insurance policy issued by a company duly authorized to do business in this State, insuring the Town and the Company with respect to the installation, operation and maintenance of the system.

1. For bodily injury, including death in:
   a. the minimum amount of $500,000 for any one person, and,
   b. the minimum amount of $1,000,000 for any one accident, and,
2. For property damage in the minimum amount of $100,000.

XIII. DURATION OF THE FRANCHISE

A. The franchise shall be for a period of 10 years.

CANCELLATION OF THE FRANCHISE

A. The town may cancel the franchise for any one of the following material breaches of contract;

1. For failure to begin construction of the system within 1 year of the beginning date (the date of of final approval by the New York State Cable Commission);

2. For failure to complete construction of the system meeting minimum technical specifications as imposed by the FCC and the Commission;

3. For failure to pay the Town its fee for a period in excess of 1 year from its due date;

4. For knowingly submitting false records or reports to the Town;

5. For the perjured sworn testimony of any company officer.

B. In the event of cancellation, the Town may hold a public auction and sell the system to the highest bidder. The proceeds of such sale shall go to the franchisee, except for any part the company may owe the Town at the time of sale, including legal fees, such part shall be retained by the Town.

XIV. SALE OR TRANSFER

A. In the event of the sale of the system to another company, or if a majority control of ownership of the company changes hands, such sale or change of ownership cannot take place without prior approval by the Town Board.

PART B: REQUIRED FORMAT AND CONTENT OF PROPOSALS

All proposal materials must be bound in some fashion. In order to facilitate comparison, all proposals must contain the following sections and be in the order specified below. Any applications not so organized will not be considered. All applications must contain the information required by Section 594.6 of the Rules of the New York State Commission on Cable Television. The information requested below is the information specified in Section 594.6 along with some additions, and applicant supplying the information requested below will be in compliance with Section 594.6.

I. Introduction (Brief description of company)

II. Description of the proposed system.

*A. Channel capacity - immediately available and total.
B. Television and Radio Signals to be carried.
C. Extent and type of any origination cablecasting to be undertaken and the facilities, equipment and staff to be employed therein.

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D. System layout or design, including,
   1. location of antenna (e) and headend (s);
   *2. plans for two-way capability and a schedule indicating when two-way capability will become available from particular points;
   3. location of origination points and origination facilities, if any;
   4. extent and type of automated services to be provided, if any;
   5. number of channels to be utilized for access cablecasting, if any; the facilities, equipment and staff to be available to access users, if any; and the access utilization or production costs, if any.

III. The terms and conditions under which the service is to be provided to educational, charitable and governmental entities.

IV. Terms concerning rates and construction schedules which satisfy requirements of Part 595 of the New York State Commission on Cable Television's rules, a copy of which is attached, and supplying the following information as a minimum:

A. A construction plan including:
   1. precise areas to be served;
   2. plan for future extension beyond the initial authorized area.

B. A construction schedule specifying time periods following the award of the franchise when:
   *1. construction would begin;
   *2. first customer would receive service;
   *3. different sections of the cable would be energized;
   *4. trunk lines would be totally installed.

C. Rates
   1. Installation charges (first set and additional sets)
   2. Monthly charges (First set and additional sets)
   3. Reconnection charges
   4. Premium programming charges
   5. Any other intended charges

V. A statement of the applicant's experience in the cable television field, if any.

VI. To the extent possible, the names and professional experience of the persons or organizations who will be responsible for the construction, installation and operation of the proposed system.

VII. A statement indicating whether the applicant or any of its principals owns or operates any other cable television system, newspaper, radio station or broadcast television system, directly or indirectly, and a statement indicating the name and address of the chief executive officer of the franchising authority in which such system or station is located.

VIII. A documented plan for financing the proposed system, which plan indicates specifically every significant anticipated source of capital and any and all limitations and/or conditions with respect to the availability of the indicated sources of capital.

IX. A statement indicating whether the applicant or any of its principals (which in the case of a corporation shall include all officers, directors, and persons having a legal or equitable interest in five percent or more of the voting stock):

A. has ever been convicted of a crime involving moral turpitude (including criminal fraud) or is presently under an indictment charging such a crime;

B. has ever been held liable by any court of competent jurisdiction in any civil action based on fraud; deceit, or misrepresentation; or

C. has ever been punished or censured in any jurisdiction for any violation or attempted violation of any law, rule or order relating to cable television operations.

If the statement is affirmative with respect to any of the above mentioned adverse considerations, the applicant should include in the statement such explanatory material as it deems appropriate.

X. Franchise fee to be paid by the cable operator to the municipality.

XI. Other pertinent information:

Items designated (*) are specified in Part B, II & IV of this document, are not considered negotiable, and all applicants must meet or exceed the specified terms. The remaining items, along with the degree to which applicants exceed specifications on designated items will form the basis for inviting applicants to participate in negotiations.

An application fee in the amount of five hundred dollars ($500.00) must be submitted with the application in the form of a certified check made payable to James W. Van Auken, Supervisor, Town of North Greenbush, New York. This fee will be refunded to unsuccessful applicants.

The closing date for the submission of applications is August 7, 1974.

Any and all correspondence should be addressed to:

James W. Van Auken, Supervisor
Town of North Greenbush
P. O. Box 38
Wynantskill, New York 12198

Phone: 518-283-5313
518-283-6570

or:

William Blom, Chairman
North Greenbush Cable TV Commission
19 Shepherd Drive
Troy, New York 12180

Phone: 518-283-0069

BEFORE THE

Federal Communications Commission

Amendment of Part 76 of the Commission's Rules and Regulations Relative to an Inquiry on the Need for Additional Rules in the Areas of Public Proceedings and Qualifications for Franchisees Section 76.31(a)(1)	)	Docket 20019

REPLY COMMENTS OF THE STATE EDUCATION DEPARTMENT OF THE UNIVERSITY OF THE STATE OF NEW YORK

The State Education Department of the University of the State of New York ("State Education Department") respectfully submits these Reply Comments in the above-captioned proceeding related to the selection of cable television franchisees.

These Reply Comments are filed by the State Education Department because it appears that insufficient attention has been paid in the Comments filed thus far to three matters which the State Education Department believes to be of fundamental importance to the proper effectuation of the Commission's franchisee selection rules. The matters are:

1. Franchising authorities should be required to establish Advisory Committees prior to the issuance of any franchise. Such Advisory Committee should be an integral

part of the requirement that there be public proceedings affording due process.

2. Franchising authorities should not be precluded from requiring extra service packages nor should such packages be considered a part of franchisee fee payments. Rather, extra service packages should be reviewed by the Commission on a case-by-case basis and disapproved only when they are unreasonable and unduly burdensome.

3. Franchising authorities should be required to review the cable operator's rules for the allocation and use of access channels. Such rules should be designed to minimize conflicting demands for the use of such channels and should contain methods for the resolution of any such conflicts.

In support, the following is stated:

The University of the State of New York includes all educational institutions in the State. Under New York law, the University's objectives include encouragement and promotion of education, the establishment of rules and policies for the educational system in the state and the development of plans for expansion and improvement. The University is governed by a Board of Regents which heads the State Education Department and which appoints the Commissioner of Education. In furtherance of the policies and purposes of the University, the State Education Department, through its Bureau of Mass

Communications, has taken an active interest in the development of all forms of mass communications and has long been convinced that cable television holds open the potential to be a profoundly effective educational tool. Underlying the present proceeding is the unassailable premise that cable television will be developed in the best possible fashion only if the franchise selection procedures employed are calculated to produce the best possible franchisees. Because the selection of franchisees can and does fundamentally affect the use of cable television as an instrument of education, the State Education Department believes that, in shaping its franchise selection standards, the Commission should bear in mind the importance of the educational use of cable television.

A review of the Comments which have thus far been filed in this proceeding suggest that three matters of consequence to the development of cable television have been either ignored or understated. The State Education Department therefore feels impelled to call these matters to the Commission's attention and urges that they be given earnest consideration.

Franchising Authorities Should Be Required to Establish Advisory Committees Before the Issuance of any Franchise

The existing regulations require that the franchisee's qualifications be reviewed and approved by the franchising

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authority "as a part of a full public proceeding affording due process" (Section 76.31(a)(1)). The State Education Department fears that all too often the "full public proceeding" has been reduced by franchising authorities to a necessary, but essentially formalistic ritual which does not entirely fulfill the Commission's purpose. The requirement of public proceedings has not served its purpose of assuring that franchising authorities reach informed and reasoned decisions based upon an understanding of the potential benefits and limitations of cable television and an awareness of the mandates and restrictions of the Commission's rules.[1/] Frequently, franchising authorities appear to have issued franchises with only the least understanding of the technology of cable television and an imperceptible comprehension of the limitations (engineering and economic) of the medium. Equally, the Commission's rules are often misunderstood and misapplied.

The consequences of uninformed and arbitrary decisions by franchising authorities are unfortunate to all concerned parties. Promises are made by cable systems to

---

1/ The public proceeding has served to protect franchising authorities from improper influences; it has, to a lesser extent, enabled interested citizens to make their views known to the officials responsible for the issuances of franchises.

educational institutions and others which are incapable of fulfillment for economic and technical reasons. The frustrated expectations thus generated lead to unnecessary tension among franchising authority, cable system and the public. As the Commission is aware, franchises are still being granted which are in conflict or at variance with the Commission's rules. This materially delays the certification process; it leads to tension between Commission and franchising authority; it increases the costs of cable. The overall result is dissatisfaction on the part of the Commission, the franchising authority, the cable operator and, above all, the public. The ultimate result has been to severely hinder and curtail the overall development of cable television.

The State Education Department sincerely believes that the imposition of a requirement that franchising authorities establish Advisory Committees before the issuance of any franchise will significantly further the purposes of Section 76.31(a)(1). The idea is scarcely novel. A number of communities throughout the country have created an Advisory Committee to report to the franchising authority prior to the issuance of any franchise. Where employed, the Advisory Committees have worked, exceedingly well.

The establishment of an Advisory Committee enables the franchising authority to transact its usual business[2/] while,

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2/ With rare exceptions, the governmental body -- i.e., Town Council, etc. -- responsible for the issuance of franchises has other and equally pressing responsibilities before it.

at the same time, permitting an in-depth and careful study of the potential of cable television in the community. Typically, the Advisory Committee is composed of community leaders representing a broad segment of the community. The deliberations of the Advisory Committee are frequently conducted in public, but are not circumscribed by formalistic legal requirements and the Committee as a whole, or its members, have the ability to independently investigate the cable situation fully. The Advisor Committee is usually required to submit a report to the franchising authority within a specified period of time. That report is of inestimable benefit to the franchising authority in its deliberations upon applications for franchise. Not infrequently the report is accompanied by a draft form of model ordinance or franchise agreement. Invariably, the report sets forth with particularity the potential benefits and limitations of cable in relation to the particular community involved. It also commonly contains a detailed summary of the requirements and prohibitions of the Commission's Rules which is of material aid to the franchising authority in shaping a franchise in compliance with those rules.

In sum, with the benefit of an Advisory Committee Report, franchising authorities are able to reach reasoned and intelligent decisions -- decisions based upon a better understanding of the potential and limits of cable and the requirements of the Commission's Rules. The effect of the

work of Advisory Committees is equally salutory: frustrated expectations and concomitant tension among cable operators, franchising authorities and the public, as well as variances between franchise agreement and the Commission's rules are kept to a minimum; and the overall result is a stimulation of cable television as an effective medium.

For these reasons, the State Education Department believes that the Commission should require all franchising authorities to establish Advisory Committees and receive reports from those Advisory Committees before the issuance of any franchise. This requirement should be made an integral part of the existing requirement that franchises be granted "as a part of a full public proceeding affording due process." Obviously, the manner in which the Advisory Committees will work will vary from locality to locality, depending upon the governmental structure and other considerations. The Commission should not straightjacket the Advisory Committees into a particular form nor should the Commission otherwise impose conditions upon the operations of the Advisory Committees. However, the Commission should insist that the Committee be reflective of the major interest groups and institutions, including educational institutions, in the community. Through such requirements, the State Education Department believes, the purposes of Section 76.31(a)(1) can be more meaningfully realized.

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Franchising Authorities Should Not Be Precluded From Requiring Extra Service Packages

The State Education Department submits that the overall approach outlined by the Commission in its Clarification (39 FR 14288) with respect to "extra service packages" of benefit to the educational community and others is sound and should be adhered to: service packages should not be flatly prohibited; service packages should not be treated as a part of the franchise fee payment. Rather, the provision of facilities and services to educational institutions and others should, as the Clarification suggests, be treated as a matter for negotiation and should be allowed by the Commission so long as the package "is not clearly excessive." 39 FR at 14299.

The flexible approach to the question of service packages outlined in the Clarification reflects the fact that franchise provisions which require cable operators to make available services and facilities to educational institutions are not, per se, inimical to the development of cable television. Indeed, in many circumstances the provision of such a package is essential to the proper development of cable. As the Commission is aware, the chief limiting factor upon the use of cable television by the educational community as an instructional, informational and educational instrument is -- to put it simply -- money. The use of cable television by educational institutions and school systems is terribly costly. The educational

community, particularly in the present economy, all too often finds it difficult, if not outright impossible, to obtain the funds necessary to make full use of cable. Of course, cable operators cannot be expected to merely subsidize school systems; and the State Education Department does not ask the Commission to require them to do so. By the same token, however, cable operators can and should be expected to provide assistance to the educational community within reasonable limits. The authority to operate a cable system pursuant to a franchise is a privilege; it is a privilege in exchange for which franchising authorities can reasonably expect -- indeed demand -- that the franchisee behave in a socially responsible fashion. One of the responsibilities that a franchisee can be reasonably expected to assume is the duty to assist the educational community in fulfilling the role of cable television as an instrument of education and instruction. A rule which precludes the provision of service packages or which treats service packages as a part of the franchise fee (and, hence, subject to severe limitation) has the effect of impairing, if not utterly destroying, cable television as an educational and instructional vehicle.

Nor is such a preclusionary or restrictive rule necessary. Service packages required by franchising authorities vary widely from locality to locality. It is impossible to fashion a rule of universal applicability which

determines precisely which service packages are reasonable and which are not. It is meaningless to say that where the cost to the cable operator providing a service package exceeds 3% of the gross subscriber revenues, the package is unreasonable. The reasonableness of the package depends in very large measure upon the size and economic condition of the community involved. The reasonableness of the package depends equally upon the types of services and facilities which the cable operator is required by the terms of the franchise to provide. As a result, it is impossible to develop hard and fast rules to determine whether a service package is consistent with or in furtherance of the overall development of cable. Rather, the determination can only be made on a case-by-case basis.

For these reasons, the adoption of hard and fast rules governing service packages is contrary to the Commission's overall objective of making cable an effective means of communication. Stringent rules are unnecessary because when the service package required from the cable operator is reasonable, the requirement is itself in furtherance of the Commission's policies. Moreover, the adoption of stringent regulations would suffer from over-breadth because the reasonableness of service packages can not be determined by a rule of universal applicability: the inevitable effect of such a rule would be to prohibit service packages which are eminently reasonable and, indeed, socially desirable. Accordingly,

the State Education Department urges the Commission to adhere to the approach indicated in the Clarification and to leave the question of service packages to negotiation between franchise applicant and franchising authority, except in cases where the package is palpably excessive.

Franchising Authorities Should Be Required to Establish or Approve Procedures for the Allocation of Use of Access Channels Where Permitted or Required

The Commission's rules require (Section 76.251(a)(11) tha cable television systems adopt rules governing the use of the access channels including the educational access channel. The difficulty is too little attention has been paid by franchising authorities, to these regulations. Indeed, in most instances it is the State Education Department's experience that the operating rules for the access channels are not even submitted to the franchising authorities as a part of the franchise application.

The results of this inattention to the operating rules governing access channels and, in particular, the educational access channel, has been unfortunate. All too often the cable system goes into operation with only the most rudimentary rules and with little or no means for proper allocation of the use of the access channels or for the resolution of conflicts with respect to those channels, should they arise. Confusion inevitably follows. Because of the uncertainty on the part of cable operators, access to the channel by educational

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institutions is needlessly difficult, time-consuming and costly; because the rules governing the access channels rarely define educational institutions, disputes arise as to whether a particular organization is eligible for the use of that channel;[3/] problems arise when conflicting demands for time are made by educational institutions because there is no procedure for the resolution of these conflicts; and, finally, disputes and uncertainty are engendered because the regulations do not establish adequate procedures for the activation of additional channels when that is necessary.

The smooth and effective use of the access channels thus requires that careful attention be given to the operating regulations which must be adopted pursuant to Section 76.251(a)(11). Those operating regulations should be reviewed by the franchising authority. More importantly, they should be reviewed before the franchise is granted and as a part of the franchising process. Comments should be received by the franchising authority from parties, including the educational community, which will be affected by the operating regulations; where changes are required or desirable, the franchising authorities should insist that those changes be made.

3/ Indeed, the Commission itself has received complaints from organizations which considered themselves to be educational institutions but which had been denied access to the educational access channel.

It is difficult to summarize precisely all of the matters to which attention should be given by the franchising authority in its review of the regulations governing the operation of access channels. At the minimum, however, the operator's rules should contain the following provisions: (i) the regulations should define with particularity the requirements of eligibility for use of the educational access channel and should contain procedures for the resolution of disputes as to eligibility; (ii) the regulations should state with particularity the manner in which requests for the use of the channel should be made and should set forth procedures for the resolution of conflicts, if they arise; (iii) the regulations should state when and under what circumstances additional channels will be made available.

Conclusion

The institution of this rule making proceeding is, the State Education Department believes, both necessary and proper. It would have been unreasonable to expect that the Commission's Rules would operate perfectly in the first instance; and the two years of operation under the existing rules affords the Commission a firm basis for making necessary refinements and adjustments. The foregoing Comments of the State Education Department are based upon its experience and perception of the operation of the rules during the past two years. The State Education Department is confident that

the Commission will give earnest consideration to the suggestions set forth above for improvement of the rules governing the selection of a franchisee. With these refinements, the State Education Department believes, cable television can be made an instructional and educational instrument of benefit both to the educational community and the public as a whole.

Respectfully submitted

STATE EDUCATION DEPARTMENT
OF THE UNIVERSITY OF THE
STATE OF NEW YORK

By_____
Stanley S. Neustadt

By_____
Ian D. Volner

Cohn and Marks
1920 L Street, N.W.
Washington, D.C. 20036

Its Attorneys

On the following pages is an example of Cable Access Rules. They are the rules designed by the Troy Newchannels CATV System.

CABLE CHANNEL
ACCESS RULES

I. Purpose. The rules and regulations set forth hereinbelow are adopted pursuant to the requirements of Rule 76.251 of the Federal Communications Commission (FCC) and govern the availability and use of the public access, educational and leased channels of NewChannels Corporation maintained on its cable television system serving Troy, New York.

II. Definitions.

(a) Cablecasting. Programming (exclusive of broadcast signals) carried on the NewChannels cable television system utilizing Class II, III, or IV cable channels as defined by Rule 76.5 (aa) (bb) and (cc) of the FCC.

(b) Access Cablecasting. Services provided by access users on it public access, educational, local government or leased channels.

(c) Access Channel User. Any person, group, organization, or other entity which makes proper application for and presents access cablecasting over the public access, educational access or leased channels of NewChannels.

(d) Legally Qualified Candidate. Any person who has publicly announced that he is a candidate for nomination by a

TROY NEWCHANNELS
6 Humiston Avenue, Troy, New York 12180
Area Code (518) 274-1415 ■ CABLE TELEVISION

convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, state, or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who:

(1) Has qualified for a place on the ballot; or

(2) Is eligible under the applicable law to be voted for by sticker, by writing his name on the ballot, or other method, and (i) has been duly nominated by a political party which is commonly known and regarded as such, or (ii) makes a substantial showing that he is a bona fide candidate for nomination or office.

(e) Public Access Channel. Cable channel 16 which is specially designated by NewChannels in compliance with and to fulfill the purposes of Rule 76.251(a) (5) of the FCC.

(f) Educational Access Channel. Cable channel 9 which is specially designated by NewChannels in compliance with and to fulfill the purposes of Rule 76.251(a) (5) of the FCC.

(g) Government Access Channel. Cable channel 7 which is specially designated by NewChannels in compliance with and to fulfill the purposes of Rule 76.251(a) (5) of the FCC.

(h) Leased Access Channels. Cable channel 17 and such others as may be made available by NewChannels in compliance with and to fulfill the purposes of Rule 76.251(a) (7) of the FCC.

(i) Lottery. Any device, scheme, plan, promotion, contest or other program and/or presentation which involves directly or indirectly the elements of prize, chance and consideration; or any such device, scheme, plan, promotion, contest or other program and/or presentation which is, has been, or may be declared a lottery under applicable local, state or federal law.

(j) Lottery Information. Any advertising or information concerning any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance, or any list drawn or awarded by means of any such lottery, gift enterpirse, or scheme, whether said list contains any part or all of such prizes.

(k) Obscene or Indecent Material. Any material in a program and/or presentation which would subject the producer or supplier thereof to prosecution under local, state or federal law for the production or presentation of obscene or indecent material.

III. Operating Rules Governing Public Access Channels.

(a) The public access channel, cable channel 16 shall be available for access cablecasting to any person, group, organization or other entity on first-come, non-discriminatory basis upon the filing of an appropriate request therefor in accordance with paragraph VI hereof, and consistent with the availability of the public access channel at the time and for the duration requested. Time and production facility requests should be made for reasonable hours. Production costs (aside from live studio presentations not exceeding 5 minutes in length) will be charged on the basis of the attached production rate card and application.

(b) Advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office) is prohibited in connection with any access cablecasting over the public access channel.

(c) No program, production or presentation shall be transmitted or permitted to be transmitted on public access channel which involves directly or indirectly any lottery information or which involves a lottery.

(d) No program, production or presentation shall be transmitted or permitted to be transmitted on the public access channel which involves any obscene or indecent material.

IV. Operating Rules Governing Educational Access Channels.

(a) The educational access channel, cable channel 9, shall be available for access cablecasting to any bona fide educational institution, organization or authority on a first-come, non-discriminatory basis upon the filing of an appropriate request therefor in accordance with paragraph VI hereof, and consistent with the availability of the educational access channel at the time and for the duration requested. Time and production facility request should be made for reasonable hours. Production costs (aside from live studio presentations not exceeding 5 minutes in length) will be charged on the basis of the attached production rate card and application.

(b) Advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office) is prohibited in connection with any access cablecasting over the educational access channel.

(c) No program, production or presentation shall be transmitted or permitted to be transmitted on the educational access channel which involves directly or indirectly any lottery information or which involves a lottery.

(d) No program, production or presentation shall be transmitted or permitted to be transmitted on the educational access channel which involves any obscene or indecent material.

V. Operating Rules for Leased Access Channels.

(a) Leased access channels shall be available for access cablecasting to any person, group, organization or entity upon the filing of an appropriate request therefor in accordance with paragraph VII hereof.

(b) No program, production or presentation shall be transmitted or permitted to be transmitted on the leased channels which involves directly or indirectly any lottery information or which involves a lottery.

(c) No program, production or presentation shall be transmitted or permitted to be transmitted on the leased channels which involves any obscene or indecent material.

(d) When any access user presents any matter for which money, services, or other valuable consideration is either directly or indirectly paid or promised to, or charged or received by, such access user, the access user shall make an announcement that such matter is sponsored, paid for, or furnished, either in whole or in part, and by whom and on whose behalf such consideration was supplied: Provided, however, that "service or other valuable

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consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, such access cablecasting unless it is so furnished as consideration or an identification in an access cablecast or any person, product, service, trademark, or brand name beyond any identification which is reasonably related to the use of such service or property on the access cablecast.

(e) Each access user shall exercise reasonable diligence to obtain from its employees, and from other persons with whom the access user deals directly in connection with any program matter for access cablecasting, information to enable it to make the announcement required by this section.

(f) In the case of any political program or any program involving the discussion of public controversial issues for which any films, records, transcriptions, talent, script, or other material or service of any kind are furnished, either directly or indirectly to an access user as an inducement to the access cablecasting of such program, an announcement to this effect shall be made at the beginning and conclusion of such program: Provided, however, that only one such announcement need be made in the case of any such program of five (5) minutes duration or less, either at the beginning or conclusion of the program.

(g) No announcements are required by this section as to feature motion picture films produced initially and primarily for theater exhibition.

(h) The rates for leased channels are as follows:

$50 per hour

$30 per 1/2 hour

$20 per 1/4 hour

$10 per 5 minutes

Over 4 hours per month - 10% discount

Over 8 hours per month - 20% discount

Over 10 hours per month - 25% discount

Rates may be increased with 30 day notice.

VI. Applications for Public Access and Educational Access Channels.

(a) Application for use of the public or the educational access channels shall be submitted in writing and shall identify the proposed access user by name and address and specify and/or contain the following:

(1) The access channel desired (public or educational):

(2) The day or days for access cablecasting desired:

(3) The Time Segment (e.g., 9:00-10:00 a.m. or 10:00-11:00 p.m., etc.) desired and duration of the cablecast:

(4) A statement that no advertising material is to be cablecast:

(5) A statement that no lottery is involved and that no lottery information or obscene or indecent matter is to be cablecast;

(6) A statement that all appropriate arrangements and clearances have been obtained from broadcast stations, networks, sponsors, music licensing organizations, performers representatives and without limitation by the above, any and all other persons (natural or otherwise) as may be necessary for authorization to transmit its program material over the facilities of the CATV system;

(7) The nature of the program, i.e., film, video-tape, live, etc;

(8) The production facilities and personnel of NewChannels which will be necessary for presentation of the access cablecast, if any; and,

(9) Such other and/or additional information, exclusive of program content, as is necessary to enable NewChannels to properly perform its responsibilities in accordance with Rule 76.251 of the FCC.

(b) All requests for access are to be submitted at least 10 days in advance of the desired date and time of the proposed access cablecast.

(c) All requests shall be processed on a first-come, non-discriminatory basis. In cases in which requests are received for the same date and time, in the event of no other available channel capacity, the earlier request to specify an alternative date and time will be honored. An access user may specify alternative dates and times in his initial request.

(d) Applicants under 18 years old must have parents or guardians signature on application and waiver.

VII. Application for Leased Access Channels.

(a) Application for leased channels shall be submitted in writing and shall identify the proposed access user by name and address and specify and/or contain the following:

(1) The leased access cable channel desired when more than one such channel is available for leased access cablecasting;

(2) The day or days for access cablecasting desired;

(3) The time segment (e.g., 9:00-10:00 a.m. or 10:00-11:00 p.m., etc.) desired and the duration of the cablecast;

(4) A statement that no lottery is involved and that no lottery information or obscene or indecent matter is to be cablecast;

(5) A statement that all appropriate arrangements and clearances have been obtained from broadcast stations, networks, sponsors, music licensing organizations, performers representatives and without limitation by the above, any and all other persons (natural or otherwise) as may be necessary for authorization to transmit its program material over the facilities of the CATV system;

(6) The identity of any sponsor or person (natural or otherwise) which has directly or indirectly paid or promised to pay the access user money or has directly or indirectly furnished or promised to furnish services or other valuable consideration in connection with the access cablecast;

(7) A statement that the access user has read and understands the provisions of paragraph V(d)-(g) of these rules and will comply therewith;

(8) The nature of cablecast, i.e., film, video-tape, live, etc.

(9) The production facilities and personnel of NewChannels which will be necessary for presentation of the access cablecast, if any; and,

(10) Such other and/or additional information, exclusive of program content, as is necessary to enable NewChannels to properly perform its responsibilities in accordance with Rule 76.251 of the FCC.

(b) All requests for access are to be submitted at least 10 days in advance of the desired date and time of the proposed access cablecast.

(c) All requests shall be promptly processed. In cases in which requests are received for the same date and time, in the event of no other available channel capacity, NewChannels shall inform the applicants of the date and times available for their respective access cablecasts. An access user may specify alternative dates and times in his initial request.

VII. Public Inspection.

(a) NewChannels shall maintain a complete record of the names and addresses of all persons (natural or otherwise), groups, organizations or entities, requesting access time. Such records will be maintained in the local office of NewChannels Corporation, and be available for public inspection there between the hours of 9:00 a.m. - 5:00 p.m., Monday-Friday, except on legal holidays.

(b) Persons requesting public inspection shall identify themselves by name and address in order to assure NewChannels administrative control of such records.

(c) Access channels will not be made available to any access user which refuses to have his identity maintained in the records and available for public inspection as required by this section.

(d) All records of requests for access channels shall be maintained for a period of two years.

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CATV: ITS PROMISES AND ITS PROBLEMS

(Speech before the Community College Association
for Instruction and Technology,
in Schenectady, May 3, 1973.)

The entire scope of our discussion this evening must be looked upon as basic to the concerns of all communities in the development of cable television systems. The history of technological developments and the uses of such technologies by communities, local governments, and education is not an impressive one. Communications technologies, particularly, were never completely or effectively used. This was true in the early days of radio, again it was true in the early days of television, it has been true insofar as the instructional television fixed service was concerned -- and each time, the reasons were the same -- the inability of both the public at large and the educational community to coalesce action and to stimulate adequate funds to take wholesale advantage of such communications technologies. In the past, each time, local governments, local communities, and the educational consortia interests of all levels of regional and State concerns have said, "We are too weak. We are too poor. We need more time!"

This time, however, the limited advantages of self-pitying hindsight are denied to us. This time, some foresight and prior study and preparation on the part of one portion of our Federal government and the concerns of many State and regional governments, as well as various combinations of local, State and Federal levels of educational concern, are active. CATV is one technology with great potential for all.

To give adequate time and preparation to the full use of CATV systems, and to assess the situation and come to some definitive, if temporary conclusions of its own, the Federal Communications Commission instituted a virtual freeze on the granting of CATV franchises from 1966 to 1972. This occurred while the FCC considered the problem of retransmission of distant TV signals. In the State of New York, the State Assembly did indeed dictate such a literal freeze on the granting of franchises, until April 1972. By that date the State CATV Commission was scheduled to begin functioning as a statewide regulatory agency.

There is only limited time this evening to consider the many problems of CATV use, and the advantages which can accrue to all of us from such use. Let us take that time to consider the opportunity that CATV affords. It will not pass our way again. Unlike the periods of development for radio, television, and the Instructional Television Fixed Service, education and community and local government interests are now given an opportunity which is not tied to the necessity of having investment dollars to take advantage of these opportunities. But we must clearly understand what is required.

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First, we must recognize that the opportunities for the initial full development and involvement in a CATV system is available to us only for a limited time, until March 1977. We are now in the experimental 5-year period when we must demonstrate to the Federal Communications Commission, the New York State CATV Commission, but most of all to ourselves, that we are capable of concerted and organized action to use this most exciting electromechanical transmission facility to the identified advantages and needs of our communities.

Second, we must demonstrate that public access channels can represent a voice of the community for identified needs, ranging all the way from environmental protection problems to a means for expressing the needs of minority groups, the culturally disenfranchised, the undertrained employables, the rehabilitated inmates of correctional institutions, and those needing drug abuse aid. Public access channels can become a powerful medium for local action.

Third, we must demonstrate our capability to realize the new service which cable television can make available to individual system subscribers, those who will pay to have a service delivered to their homes. A CATV system is the most pervasive single means of communications yet devised that can bring to the home televised and other systematized courses for college study and for continuing adult education classes; classes and preparatory activities for the adult who has not yet achieved the high school equivalency diploma, for the homebound child who needs instruction, for the adult and semiliterate who needs the privacy of the home in which to learn enough to no longer feel embarrassed in a reading or writing situation, for the visually handicapped who need two-way audio channels for further learning opportunity, and for the doctors, nurses, and medical paraprofessionals who need to be exposed to clinics and seminars for professional information, exchange, and improvement. It might almost seem that CATV is the greatest thing since Moses descended from Mt. Sinai with the tablets. But in this day of frustration and need, I suspect the only two tablets he might bring would be aspirin.

Fourth, we need to build new inservice training opportunities for policemen and lawyers. We need to encourage public and private institutions to build their own two-way cable networks, or to lease channels for computer data exchange; for televised conferences and administrative advisories; to interconnect CATV systems, one with the other, so that vast networks of information, services, and cultural information and exchange may be readily available.

Most important, the vast resources of printed information and computer-stored reservoirs of basic information for the world's energy reserves must be readily available as tools to man's survival as well as his accommodation to nature. As our Commissioner is fond of saying, we all need all of the broadcast education that we can get. In that way, when you knock on yourself, someone is at home.

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Let us look at each of the elements that I have enumerated, in depth:

First, in order to consider the long view and the ultimate aims which influence decision and community directions and desires, we must give some attention to the dictum of the Federal Communications Commission. What did this federal regulatory body foresee as the long range possibility for CATV? In the words of the FCC:

> We envision a future for cable in which the principal services, channel uses, and potential sources of income will be from other than over-the-air signals. We note 40, 50, and 60 channel systems are currently being installed in some communities . . . . We urge cable operators and franchising authorities to consider that future demand significantly exceed current projections.

Thus, we see quite clearly that the FCC considers this interim 5-year period one in which we must clearly begin to discern some of the outer possibilities of CATV. During this period we must begin to use the capability of CATV to serve some of the most needed service indications that exist, and we must begin to experiment with other possible public service and learning modes that are not being satisfied with the existing means for doing so.

We indicated that a second element in the use of CATV services and capabilities demands that we regard public access channels as a means for community expression of needed action. The Federal Communications Commission, in making available the three access channels, namely, one for public access use by the community; one for local government; and one for education, seemed to have a question in its mind as to the ability of these three aspects of our community life to truly make adequate use of these public access channels. No fees are to be charged, initially, for the use of these three channels and their access to the community. But history, as I indicated, seems to suggest that we have not always been ready to take advantage of technological aids to educational and community need. Therefore, at this time, the FCC is NOT, I repeat NOT requiring such channels to be made available in all communities --only in the top 100 markets of the United States. Only five of these markets exist in the State of New York. But the Federal Communications Commission foresees the need for these channels in all CATV systems markets, not just the largest 100 in the nation. Cable system operators might object to granting such access channels. The Commission has said

> In communities outside the top 100 markets where access channels are not required by the Commission, we will permit local authorities to require access services, so long as they are not in excess of what we require for the major markets.

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The Regents of the State of New York, and the Commissioner of Education have requested the New York State CATV Commission to require that every CATV system of the State provide such access channels. They have also requested that for systems already in existence that such provision be made before the renewal of their franchise or by March 1977, whichever date may come first. Although this might at first appear as a distinct advantage to local government, the community and the local educational interests of a given system's locality, we must recognize the dangers inherent in this situation. With the exception of only two communities in the State, there is little advanced or coordinated planning of the use of the educational and public access channels, so far as is known.

There is no coordinated planning effort to meet the needs of all levels of educational need in many of the existing and planned cable systems now active in the State of New York. Elementary and secondary schools are not giving planned in-depth consideration to the instructional uses of channels for education. Few communities have organized groups of concerned citizens to relate elementary and secondary needs to those of community colleges and institutions of higher learning. Few leaders have come forward with planned approaches to adult and continuing education needs. Plans to meet the drug abuse crisis through the use of CATV systems are notably lacking.

As yet no community service organizations have given broad visibility to their programs for the rehabilitation and job-training of correctional institution inmates.

There is a resounding and deafening silence on all sides when it comes to coordinated plans for the use of CATV systems' capabilities to increase exposure of any community to the performing, or graphic and visual arts.

It is the hope of all of us that coordinated planning by consortia of institutions of higher learning will make available to many the opportunity for pursuing a Regents External Degree, which depends not on how many hours one sits in a classroom but on the totality of the learning experience.

Finally, we must ask "Where are the plans for inservice opportunities to be extended to nurses, lawyers, police, and the multitude of service related jobs that we all say need filling?"

The Regents are anxious to provide information services and help in planning the use of the most pervasive of technology opportunities yet afforded us. Although franchises are being granted around the State of New York, the wholesale participation in public hearings by community groups has not yet manifested itself to any great extent.

The voice of the community, the voice of the minorities, and the voices of those who need help or are subject to restrictive abuse can be heard, through CATV. The FCC has made this clear in the following statement:

> With respect to the public access channel, the rules to be promulgated by the (CATV) system must specify nondiscriminatory access without charge on a first-come, first-served basis.

It is, therefore, up to you and me to see to it that these channels are available. We must ask for them at public hearings and in petitions to our local franchising authorities, the local governments of the areas in which these cable systems exist and will operate.

We must take steps to make the ownership options of systems known to all of our local friends and agencies.

What are some of these options of CATV system ownership? What are their characteristics,and what can we do about them?

We must recognize that the problem of system ownership is probably one of the most emotionally charged topics that a community entering the use of CATV will ever consider. Most ownership tends to be private. The amount of money required and the intensive means of going about raising such capital are all-consuming efforts. Of the large private owners, most tend to be owners of multiple systems. They came to be that way, for the most part, by buying up the small and previously independent operators; although many of the multiple-system operators have begun some portions of their systems' ownership by establishing their own systems, as well. But giants are giants and tend to frighten and discourage various elements within communities. Nevertheless, for the first time, minorities look upon the cable system as a way in which a permanent voice may be found for the benefit of its members. In many instances, educators who have been forward-thinking and forward-looking have begun to look upon cable systems as means for offering learning opportunity in greater quantity and to more diverse groups than can readily be accommodated within the confines of the traditional institution or structure.

These opportunities, seen clearly for the first time, are not easy to surrender in the face of the need for vast sums of money for initial capitalization of a cable system. The thinking educator, the leader of the minority group in need of a community voice, the civic leadership, and those who recognize the importance for local government to reach its constituency at all times -- none of these pretend that cable systems bring instant fiscal economies to the needs of a community, an educational enterprise,or an expression of such vital interests as the health problems of a minority group. Cultural disenfranchisement notwithstanding, one cannot ignore the fiscal realities of the cost of continuous and localized instant communications which a CATV system can bring.

Local groups who may wish to capitalize cable systems are often outbid for the opportunity by giant multiple system owners. The multiple system owner appeals to the banker as a more tenable risk for capital loan. Looked at carefully, the multiple system owner seems more attractive

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as a source for supplying large amounts of programing. The Tele-Prompter Corporation is a good example of this largesse of instant programing source. With more than 100 cable companies in operation it has developed a large and attractive library of video tape programing available only to its systems. Multiple system owners will frequently organize a local company, invite the members of the community to buy into its operation -- up to 20 percent of the stock -- but will maintain for itself the controlling shares and operational direction.

But there have been some notable exceptions to the multiple system ownership approach to cable systems. In Gary, Indiana, local black residents have recently sought a second cable franchise-- non-exclusive -- in that city. Twenty members of the minority corporate group have put up $100,000 each, to establish a system which will reach the greater Gary, Indiana area.

Still other attractive participation combines are emerging as well; in the Bedford-Stuyvesant section of Brooklyn; in Dayton, Ohio; and, in Watts in Los Angeles. Localities are quick to see the advantages of operational, managerial, and engineering experience and expertise that well-established system operators can bring to a new CATV system concept. Thus, a joint venture between a public interest group and a private operator can be a very desirable and even a good possible method for proceeding.

But joint ventures also have problem areas, not always possible of resolution. The local group may want a controlling voice right from the beginning, while contributing only a small part of the capitalization of the joint venture. Squabbles can quickly arise, and the major investor is puzzled and frustrated in deciding who speaks for whom. Such disagreements can lead to an early demise for a joint venture, and disaster for the corporate or banking investment interest.

Still other possibilities of cable system ownership exist. The most obvious is that of municipal ownership. When this is mentioned, one immediately thinks of Frankfort, Kentucky as a prime example of municipal ownership. In the instance of Frankfort, this has proved a wise and desirable way to proceed. Frankfort is in the heart of what can be referred to as "cable country." Reception of regular television signals is extremely poor. There is need for an excellent cable system to bring a service to the community. Frankfort now charges only $2.50 per month-- an unheard of low fee, and an installation charge of only $5. But one must remember that approximately 71 percent of the market area is covered by the system. This compares well with most other communities where the saturation of coverage by a cable system may be a modest 30 percent, only. Public capitalization is not always difficult to achieve. Financing can be accomplished through tax assessments, general obligation bonds, or revenue bonds. The most feasible and desirable source would appear to be municipal revenue bonds. Under such financing conditions the bondholder can look only to the project's revenue for interest and principal repayment.

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Other than direct municipal ownership, a municipality may decide to create a cable authority to build and operate a system; it may lease a publicly owned system to a private operator; or, it may contemplate the municipal sale or purchase of a cable system.

We cannot leave the consideration of cable system ownership without considering one other possibility -- that of noncommercial ownership. One such cable system operates and is an outstanding example of such a noncommercial approach. The system operates in Vincennes, Indiana and is owned by the local college. It serves 2400 subscribers. We must not forget the barrier to such noncommercial ownership in most cases. It is lack of money and lack of management capability. But such prestigious organizations as the Sloan Commission, the Ford Foundation, and the United Church of Christ have all recommended such non-commercial ownership of CATV systems. Consortia of various groups are a natural for this kind of procedure - universities, libraries, service organizations, community action agencies, PTAs, school systems, BOCES boards, professional associations, chambers of commerce, and public television stations. Such a formidable array of possible noncommercial, nonprofit conglomerates may seem a happy solution. It would be short-sighted not to consider some of the immediate problems. In such a combine of ownership we must remember the following:

The system may not be profitable. If it is not, how does it continue?

Control of channel access on such a system may be more important to the participants than is ownership.

Under such an ownership, which neighborhoods would be wired first?

On what basis would subscriber rates be set?

Should the more affluent subscriber subsidize other users of the system? (Those on relief, the unemployed, the elderly; the semiliterate?)

Finally, does the community possess the local leadership, and the financial resources to own, operate and build a noncommercial enterprise of widespread community need?

You have listened patiently while I presented my version of some of the problems of considering the uses of cable television. Now it is time for me to listen to some of the ideas which have occurred to you in considering this technology and its potential. However, as we exchange ideas, I am reminded of the story of the two English clerics, who had been at odds for years. One, because he was a leader of the Anglican church. The other, because he was a leader of the Lutheran synod. In a burst of unheard of ecclesiastical understanding, the head of the Anglican church one day said to his arch rival from the Lutheran church, "There really is no need for us to quarrel, as we do. After all we are both interested in doing God's work. You in your way, and I in HIS."

May this same mutuality of understanding and concern, govern our discussion.

Statement by
Bernarr Cooper
before the
Federal Communications Commission
Concerning Community Antenna Television
March 26, 1971

I am Bernarr Cooper, Chief of the Bureau of Mass Communications in the New York State Education Department, the University of the State of New York. I am also a member of the Federal Communications Commission's national Committee for the Full Development of the Instructional Television Fixed Service and the Northeast Region Chairman for that Committee.

I am here, today, not only as an educator and a private citizen, but as a representative of the Regents of the State of New York and the Commissioner of Education.

My statement is in support of the hearings of the Commission on Dockets 18397-A, 18891, 18892, and 18894. The major purpose of this statement is threefold: one, to make a matter of record the position of the Regents and the Commissioner of Education on cable television; two, to give information to the Federal Communications Commission on current developments and proposed New York State legislation as it can affect cable television; and, three, to suggest to the members of this Commission the desirability of the creation of a small, informed, and concerned advisory group to aid the Commission in its future deliberations on cable television and related telecommunications developments.

It is already a matter of record before the Commission and in industry published sources that there are more than 2300 cable systems in operation

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in the United States. Of these, at least 109 systems are already functioning in New York State. These systems represent more than 265,000 subscribers, outside of the metropolitan New York City area, in more than 254 communities. There are some 7,814,700 households in the State of New York. Of these, it is conservatively estimated that at least 60 percent, or 4,688,820 are potential subscribers to a CATV service at this time.

In the State of New York, education had an early and continuing relationship with CATV. The use of community antenna television channels by schools and school systems is not new. As examples: the Corning schools have used the channels of, and been served by the Corning Community TV Company for many years; in Utica, the Central New York Cable Company makes possible an instructional service to the schools; the Elmira school system has used the channels of Elmira Video; the Malone Public Schools are served by New Channels Corporation; the Frankfort and Mohawk School systems use channels from Antenna Vision Incorporated; Ithaca College and the Ithaca Public Schools have used the system operated by Mr. Cerracche; and, in Greene, New York, Greene Cablevision provides an educational service -- to name but a few places in the State where the relationship has existed for some time.

Very recently the Federal Communications Commission has suggested the need for State and local government based direction of cable television developments.

The legislature of the State of New York, and the Regents of the State have responded to this recommendation by the FCC, and are considering the need for a public communications policy. Underscoring this action is the recognized awareness that American education stands at the crossroad of mounting learner opportunity and need, and the lack of increasing available public funds to meet such learning needs. High on the list of the Regents

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educational priorities are such recognized elements as the right of every American to an acceptable level of reading competency, and the Commissioner of Education's recognition and encouragement of the establishment of an external degree program.

The right to read and the indispensable right to know seem paramount. The policies related to telecommunications and to cable transmission, in particular, which will emerge during the next months or years, will determine to a large extent what can be done to aid the education of the citizens of our nation.

Recognizing the seriousness of education's needs, and the great potential of cable television, the Regents adopted an official position on November 20, 1970. In summary, the Regents position made four basic recommendations:

First, that a New York State Commission on Cable Television should be created by the State;

Second, that the Cable Commission should provide guidelines in a number of areas to include technical standards, consumer protection, minimum channel capacity, and the availability of channels for public service and educational need;

Third, that the Regents shall act as a coordinating body for the Cable Commission for informational and instructional services to the State, and articulate the overall New York State Television and Telecommunications policy to the Federal Communications Commission; and,

Fourth, that the Regents would organize an appropriate State level telecommunications policy group to identify educational communications needs of the State and make recommendations to the Cable Commission for

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serving such needs.

Vast as the potential of cable television may be, the Regents are wary, as the Federal Communications Commission has been, namely, that there shall be no franchises granted which by their terms are likely to interfere with the full potential of cable television. It is the further position of the Regents that the granting of a franchise is a matter of prime concern to all members of a community. Therefore, every member of a community must be given the opportunity to express his views at a public hearing. Since franchise granting is sometimes a difficult and complicated procedure, every community in the State of New York is encouraged to seek information, advice, and guidance from the Regents. Particularly, the Regents recommend that franchises "shall be formulated to meet a community's needs for education and public informational materials."

Most important, the Regents have underscored their official position on cable television by recommending "limiting the length of franchises in order to guarantee maximum flexibility for future technological developments." Finally, because the future of cable television holds untold electronic interconnection possibilities, ". . . the Regents strongly recommend that local governing bodies be zealous in retaining for all of their citizens complete options to flexible future developments of cable television."

Let it be said once more, as the Commission itself has underscored it in the past, the need for cable television to meet citizen uses and needs is manifest. Every thinking educator would hasten to assure this Commission that only a portion of the predictable uses of cable television are educational and instructional. There are a whole host of developing and future services. Some of these new communications' services to communities, homes

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and businesses include: information retrieval (such as library and other reference materials); computer to computer communications; employment services and manpower utilization information; control of air pollution and traffic; enabling various professional groups such as doctors to keep abreast of new professional developments; and, as the Commission has already pointed out in previous proposed rulemaking procedures, "cable television will provide a low-cost outlet for political candidates, advertisers . . . and for other moderately funded organizations or persons desiring access to the community or a particular segment of the community." Most important, there is a need to provide every technologically electronic access to the improvement of reading skills for an estimated 20 million Americans whose reading skills are either nonexistent or at such a low level of development as to be useless for any considerable application to learning or for general information gathering, or for earning a living and the enjoyment of life in our highly technologically oriented society.

The Federal Communications Commission has encouraged all states to give thought to action which would retain at the local level the major thrust for orderly development of cable television. In the State of New York considerable thought has been given to the regularization of cable television. At this time, two kinds of bills are being considered by the New York Legislature. One of these, would in essence give full jurisdiction of final decisionmaking related to regulation, to the Public Service Commission.

A second kind of bill, which has the general support of the Regents, is one which would create a State-level Commission on Cable Television.

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Thomas Laverne, State Senator from Rochester, and Assemblyman Robert F. Kelly of Brooklyn are the joint proponents of the bill. Only the press of State legislative action and the many problems related to budget planning for the State of New York have prevented them from appearing before you. Each of them has asked me to explain the broad outlines of the bill on their behalf. The bill bears the State Senate number 5589, and the Assembly number 6351. Almost two years of study by legislative staff went into the preparation of the bill. More than 30 hours of public testimony was conducted by Assemblyman Kelly and his legislative colleagues, on five different occasions, and in locations across the State of New York.

The bill creates a Cable Television Commission by amending the executive law of the State of New York. The bill designates a small commission, to ensure that it shall be truly productive and actively concerned.

The wording of the bill is clear and concise as to purpose and need.

> This independent commission (is created) . . . to assure the suitability of practices for franchising cable television companies so as to protect the public interest, to set standards for cable television systems, to encourage uniformity of franchise practices and to establish guidelines for municipalities issuing franchises, to assure channel availability for municipal services, educational television, program diversity, local expression and other program and communications content services, to provide consultant services to community organization and municipalities in franchise negotiations and to stimulate the development of diverse instructional, educational, community interest and public affairs programming with full access thereto by cable television companies, educational broadcasters and public and private institutions operating closed circuit television systems and instructional television fixed services.

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Early in my testimony I made reference to the suggestion which seems to provide informational focus for the Federal Communications Commission's future deliberations on cable television. Mainly, and on behalf of the public at large and the educational community in particular, let me suggest for consideration by the Commission the appointment of an Advisory Group to aid the Commission in the many related telecommunications developments which must come to its attention, particularly as these effect cable television.

Desirably, such a government-industry type of Advisory Group should be created by executive order. It should have no more than five, or at the outside, seven members. It should function only at the expressed request of members of the Commission. It should address itself to those matters on which the Commission wishes information, reaction, philosophical or policy guidance, or recommendations for action. The members of the Advisory Group should not be holders of public office; should have no investment or operational involvement in cable systems; should not be owners, members of boards, or have investments in manufacturing, selling or designing equipment used in cable television systems.

This Cable Advisory Group shall have only one major purpose and function: to analyze needs and make recommendations for those rule-making and operational procedures that may serve as guides to the Commission in its deliberations. Such an Advisory Group should be cognizant of and committed to making suggestions that are equitable to both the public and the cable industry. Such a Group may indeed be the prototype and forerunner of telecommunications' ombudsmen of the future.

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Not the least of the contributions of such an Advisory Group might well be an initial consideration of regionalization of CATV systems for the many benefits that exchange of vital and needed information can bring about. A whole host of needed services and groups can be identified that would benefit from the availability of local and regionalized cable television services: the culturally disadvantaged, the economically deprived, the many municipal governments, school systems, colleges and universities, civic and cultural organizations, welfare agencies, and such specialized groups as the police, firemen, lawyers, doctors, engineers, nurses,and teachers -- to name but a few.

This testimony was not intended to be all-inclusive. It has touched only a small number of the many issues related to cable television that will concern the Federal Communications Commission. The Regents, the Commissioner of Education of New York State, Ewald B. Nyquist, and Senator Laverne and Assemblyman Kelly would wish me to assure this Commission that the State of New York is prepared to assume its responsibilities in planning for the future needs of telecommunications for the State and, where appropriate, for the nation.

I appreciated this opportunity to appear and to make these remarks for the record.

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FEDERAL COMMUNICATIONS COMMISSION
RULES AND REGULATIONS GOVERNING CABLE TELEVISION
A Summary Distributed by the State Education Department
Office of Cultural Education
Bureau of Mass Communications

Bernarr Cooper
Chief
Bureau of Mass Communications
May 3, 1972

NEW RULES OF THE FEDERAL COMMUNICATIONS* COMMISSION GOVERNING CABLE TELEVISION

The following is a summary of the new cable television rules, issued by the Federal Communications Commission, which will become effective on March 31, 1972. The new rules cover four basic areas:

(1) television broadcast signal carriage;

(2) access to and use of non-broadcast channels, including minimum channel capacity;

(3) technical standards; and

(4) Federal-State/local relationships.

*As prepared by the firm of Cohn & Marks, Washington, D. C.

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I. Television Broadcast Signal Carriage

a. Introduction

The FCC's carriage rules divide all television signals into three main classifications:

(1) Carriage priority one: those television signals that a cable system must carry, upon request, or which may be carried even if there is no carriage request.

(2) Carriage priority two: the television signals that, taking television market size into account, a cable system may carry, at its option, in order to achieve a minimum allowable service.

(3) Carriage priority three (additional service): those television signals that some cable systems may carry, at their option, in addition to those television signals required or permitted to be carried under carriage priorities one and two.

The number and type of television signals which a cable system is permitted or required to carry varies depending upon whether the cable system is located within:

(a) the top 50 television markets,

(b) television markets 51-100,

(c) smaller television markets (below the top 100 markets), or

(d) outside of all television markets.

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The television markets are ranked in size according to the American Research Bureau 1970 prime time household's ranking. The FCC stated that, in order to insure stability, this ranking will not be revised each time new rankings are issued by American Research Bureau. A television market is defined as the area included within a zone of 35 mile radius from a specified reference point in each designated community in which a television station is located.

b. Carriage Regulations

On the next pages (4-8) there is a Table which summarizes the new television carriage rules.

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F. C. C. RULES GOVERNING TELEVISION BROADCAST CARRIAGE

	First 50 TV Markets (1-50) Second 50 TV Markets (51-100)	Smaller TV Markets (below 100)	Outside All TV Markets
A) Carriage Priority One -- TV Stations that must be carried upon request from TV stations, or which may be carried even if there is no carriage request.	(1) All TV stations within 35 miles of cable community. * (2) All TV stations located in other communities that are generally considered within the same TV market (i.e., hyphenated markets as designated in Commission rules), without regard to distance or TV contour coverage over cable community. (3) All Grade B signals of educational stations. (4) All TV translator stations in the cable community with 100 watts or higher power (5) All TV stations which are "significantly viewed" in cable community, without regard to distance or TV contour coverage over cable community. **	(1) All TV stations within 35 miles of cable community. * (2) All TV stations located in other communities that are generally considered within the same TV market (ARB and Nielsen recognize different communities as being within the same TV market and these characteristics can be relied upon). (3) Grade B signals of educational TV stations. (4) Grade B signals from stations in other smaller markets. (5) All TV translator stations in the cable community with 100 watts or higher power. (6) All TV stations "significantly viewed" in cable community, without regard to distance or TV contour coverage over cable community. **	(1) All Grade B signals of TV stations. (2) All TV translator stations in the cable community with 100 watts or higher power. (3) All educational TV stations within 35 miles, regardless of TV contour coverage over cable community. (4) All TV stations "significantly viewed" in cable community, without regard to distance or TV contour coverage over cable community. **

* See note, page 8
** See note, page 8

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	First 50 TV Markets (1-50)	Second 50 TV Markets 51-100)	Smaller TV Markets (below 100	Outside All TV Markets
B) Carriage Priority Two -- TV stations that <u>may</u> be carried at option of cable system.	(1) Those additional TV stations, which including those TV signals required to be carried as described in (A) above, would provide the following total of TV signals on the cable system: a) 3 full network TV stations (ABC, CBS, NBC). b) 3 independent stations. (2) Additional educational and one or more non-English language TV stations.	(1) Those additional TV stations which, including those TV signals required to be carried as described in (A) above, would provide the following total of TV signals on the cable system. a) 3 full network TV stations (ABC, CBS, NBC). b) 2 independent TV stations. (2) Additional educational and one or more non-English language TV stations.	(1) Those additional TV stations which, including those TV signals required to be carried as described in (A) above, would provide the following total of TV signals on the cable system. a) 3 full network TV stations (ABC, CBS, NBC). b) 1 independent TV station. (2) Additional educational and one or more non-English language TV stations.	(1) Any additional TV stations, without restriction.

	First 50 TV Markets (1-50) Second 50 TV Markets (51-100)	Smaller TV Markets (below 100)	Outside All TV Markets
C) Carriage Priority Three (Additional Service) -- bonus choices, which may be carried, at option of cable system.	The cable system may carry 2 additional independent TV stations, provided, however, that the number of additional stations permitted under this bonus choice is reduced by the number of TV stations added to the cable system under the carriage priority two, (B) above. Educational and non-English language stations will not be counted in meeting the quota. For example, assume that a cable system in the 37th largest TV market is required to carry under carriage priority one. (A) above, the 3 major networks and 2 independent stations. The cable system can add 1 "out-of-market" independent station under the carriage priority two. (B) above, to attain the minimum service level of 3 full network stations and 3 independent stations. Then, under the bonus choice (C), this cable system could add only 1 more independent station, rather than 2 independent stations, since the 1 "out-of-market" station is counted in meeting the 2 bonus choices.	None.	Any addition TV stations without restriction.

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	First 50 TV Markets (1-50)	Second 50 TV Markets (51-100)	Smaller TV Markets (below 100)	Outside All TV Markets
D) Leapfrogging Rules	Network Stations: Cable system must afford priority of carriage to the closest such station or, at the option of the cable system, to the closest such station within the same state. Independent Stations: There are no restrictions as to point of origin or type of signal (UHF or VHF) for the first 2 such stations, except if the cable system elects to carry such stations from among the top 25 TV markets, it must carry the stations from one or both of the two closest top 25 TV markets. Cable systems permitted to carry a third independent station must select a UHF station from within 200 miles of the cable community. In the absence of any such UHF station within this 200 mile area, then cable system must carry a VHF independent from within the 200 mile area or, at the option of the cable system, any UHF independent, regardless of distance. Note: During these periods when programming on a regularly carried independent station must be deleted by virtue of the program exclusivity rules, the cable system is free to insert unprotected programming from any other stations (VHF or UHF, network or independent) without regard to point of origin and such programming may be continued to its conclusion. In addition, the cable system may also substitute other programming when the material on the regularly carried independent station is a program primarily of local interest to the distant community (e.g., local news or public affairs of unique interest to the distant community but of little or no interest to the cable community).			There are no leapfrogging restrictions applicable in these areas.

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Notes

* In the case of Grade B overlaps, a cable system in a top 100 TV market (within the 35 mile zone of a designated city in a top 100 TV market) would be permitted to carry the Grade B signal of a TV station from another top 100 or smaller TV market, but only if (a) the cable system were located wholly within 35 miles of the latter market, or (b) the signal were found to have "significant" over-the-air viewing, as defined by the FCC, in the cable community (even if the community of the Grade B signal is located in excess of 35 miles of the cable community). The same standards are applicable to the carriage of Grade B signals licensed to top 100 TV markets by cable systems located within 35 miles of smaller TV markets. These standards do not apply in the case of Grade B overlap between two or more smaller markets; i.e., a cable system within a smaller TV market may carry the Grade B signals of TV stations licensed to other smaller markets.

** "Significant viewing" is defined in the FCC Rules for network and independent TV stations as follows:

A network station will be considered as "significantly viewed" if it has a 3% share of the viewing hours and at least a 25% net weekly circulation in the cable community.

An independent station will be considered as "significantly viewed" if it has a 2% share of the viewing hours and at least 5% net weekly circulation in the cable community.

The FCC has prepared a list of stations which are significantly viewed in each county of the U.S. and it indicated that it will accept this county-wide information to establish viewing levels for signals in all communities within these counties. The FCC further indicated that it would accept these figures as conclusive until March 31, 1973, at which time those wishing to make supplemental showings for the purpose of qualifying new signals under the "significant viewing" test may do so by following procedures outlined by the FCC.

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c. Grandfathering Rules

Television signals which cable systems were authorized by the FCC to carry or which were lawfully being carried prior to March 31, 1972, are "grandfathered," i.e., the new television carriage rules would not be applied to such signals. Authorized signals include those signals whose carriage has been permitted by specific decision of the FCC and those signals which are authorized by virtue of the fact that the cable system provided notification, in accordance with earlier FCC rules, and no objection to that notification was submitted to the FCC. In this connection, however, the signals listed in the notification must have been consistent with the then existing FCC cable rules in order for such signals to be "grandfathered."

For example, if a cable system in a top 100 market community provided a notification on June 6, 1971, which included the carriage of Grade B signals and also a distant (non-Grade B) signal, and no objections to this notification were filed, the Grade B signals would be authorized and thus "grandfathered" even if the system is not operational by March 31, 1972 (although an FCC certificate of compliance will be needed before the proposal can be implemented, as explained below). The distant signal would not be authorized or "grandfathered" since the FCC's then existing rules barred the carriage of distant signals into top 100 market communities without specific prior written authority of the FCC.

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d. Certificate of Compliance

Effective March 31, 1972, no cable system may commence new operations or add a television signal to an existing operation unless it files an application with the FCC for a certificate of compliance and the FCC grants this application.*/ A cable system in operation prior to March 31, 1972 does not have to file an application for certificate of compliance with respect to those signals which it was lawfully carrying prior to March 31, 1972; such a cable system can continue to carry these signals until the end of its current franchise period or March 31, 1977, whichever occurs first, at which time a certificate of compliance is required to permit continued operation with the existing signals. If a cable system files an application for a certificate of compliance within 30 days prior to the date on which its current franchise expires or March 31, 1977, whichever occurs first, it will be permitted to continue to operate with its existing television signals until the FCC acts on the application.

If the carriage of specified television signals by a cable system is authorized (by means of a specific FCC decision or compliance with the notification procedure)

*/ Existing cable systems seeking authority to add new signals after March 31, 1972 will not be required to comply at this time with all the new franchising provisions (see page 30, below).

and if the cable system is not in operation with those signals before March 31, 1972, the cable system is nevertheless requied to file and receive FCC approval of the application for certificate of compliance before it can commence operation with the signals in question. In this connection, the advantage of the signals being authorized prior to March 31, 1972 is that the FCC may permit the carriage of such stations even though such carriage is inconsistent with the new cable rules if the signals have been "grandfathered" as described above.

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Program Exclusivity

a. Network Program Exclusivity

The previous exclusivity rule was based on a system of priorities that protected a television station of higher priority against having its program duplicated on the same day by cable carriage of a station with a lower priority. There are two significant changes embodied in the new rule. The new rule provides:

(1) only for simultaneous non-duplication protection, rather than same day non-duplication protection, and

(2) it applies only to network programming.

There is no non-duplication protection requirements for any programming other than network programming (e.g., local programs are not entitled to protection), except in the top 100 television markets where syndicated programming is entitled to non-duplication protection, as described below. Syndicated programming is not entitled to non-duplication protection on cable systems in any market below the top 100 markets.

The new rule provides that a cable system must, upon request of a station entitled to receive protection, maintain that station's exclusivity as an outlet for network programming against lower priority, simultaneously broadcast duplicating signals, but not against signals of equal priority, in accordance with the following order

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of priorities:

(1) Television stations within whose principal city contours the cable community is located, in whole or in part.

(2) Television stations within whose Grade A contours the cable community is located, in whole or in part.

(3) Television stations within whose Grade B contours the cable community is located, in whole or in part.

(4) Television translator stations with 100 watts or higher power licensed to the cable community.

(5) Television stations, which do not fall within categories (1)-(4) above and which are being carried because they are "significantly viewed" in the cable community, are not entitled to network non-duplication protection. There is one exception to this rule: television stations licensed to communities in smaller television markets whose signal is being carried by a cable system located outside of all television markets by virtue of the fact that the signal is "significantly viewed" in the cable community are entitled to receive network non-duplication protection. (Such a station is not entitled to exclusivity protection, however, if it was authorized or lawfully being carried by a cable system prior to March 31, 1972).

b. Syndicated Program Exclusivity

Exclusivity Rules in General

The rules concerning the protection of syndicated programming are applicable only to cable systems in the top 100 television markets, (i.e., cable systems in communities located within 35 miles of designated communities in the top 100 television markets). The new rules provide that, even though a cable system may carry a particular out-of-market television station, it must black out the signal

of the television station when that station is broadcasting a syndicated program which is entitled to exclusivity protection due a top 100 market station.

A syndicated program is defined as any program sold, licensed distributed or offered to television stations in more than one market within the United States for non-interconnected (i.e., non-network) television broadcast exhibition, but not including live presentations.

Television Markets 1 - 50

Cable systems, in order to provide exclusivity protection, upon receipt of appropriate notification, cannot present protected syndicated programming on a station carried under carriage priorities two and three.

(1) for one year after the date on which the program is first licensed or sold to a television station any place in the United States and

(2) for the life of the exclusive contract under which the program is sold to a local station.

The one year pre-clearance provision means that in a top 50 television market a cable system cannot carry syndicated programming on an out-of-market station for a period of one year from the date on which the program is licensed or sold to a television station any place in the United States, even though the program has not been sold in the market of the cable system. For example, if a particular syndicated program was first in New York

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(and this was the first sale in the United States) and, thereafter, it was sold in Baltimore, but has not been sold in Washington, D.C., a Washington D.C. cable system would be precluded from carrying this program through the importation of an out-of-market television signal (e.g., a Baltimore or New York television signal) for a period of one year after it was first sold in New York, even if the program was not purchased or broadcast by a Washington, D.C. station. Assuming that a Washington, D.C. television station now purchases this particular program, the Washington, D.C. cable system would then be precluded from importing this program from an out-of-market signal (e.g., a New York or Baltimore signal) for the additional period of the life of the contract between the syndicator and the Washington, D.C. television station (assuming the proper exclusivity terms are written into the agreements in the case of agreements executed after March 31, 1972).

Television Markets 51-100

Cable systems, in order to provide exclusivity protection, upon receipt of an appropriate notification, cannot present protected syndicated programming on a station carried under carriage priorities two and three where such program is under an exclusive contract to a station licensed to a designated community in the market, except

as follows:

(1) A cable system may carry any syndicated programming if the program is carried by the cable system in prime time and will not also be broadcast by a commercial market station in prime time during the period for which there is exclusivity for the program.

(2) For off-network series programs, the cable system may carry the programs (a) prior to the first non-network broadcast in the market of an episode in the series, and (b) after a non-network first run of the series in the market, or after one year from the date of the first non-network broadcast in the market of an episode in the series, which ever occurs first.

(3) For first-run series programs, the cable system may carry the program (a) prior to the first broadcast in the market of an episode in the series, and (b) after two years from the first broadcast in the market of an episode in the series.

(4) For first-run, non-series programs, a cable system may carry the program (a) prior to the date the program is available for broadcast in the market under the provision of any contract or license of a television broadcast station in the market, and (b) after two years from the date of such first availability.

(5) For feature films, the cable system may carry the program (a) prior to the date such film was available non-network broadcast in the market under the provision of any contract or license of a television broadcast station in the market, and (b) after two years after the date of such first availability.

(6) For other programming, the cable system may carry the program one day after the first non-network broadcast in the market or one year after the date of purchase of the program for non-network broadcast in the market, whichever occurs first.

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Parties Entitled to Exclusivity

The rules provide that appropriate notice must be given to cable systems when exclusivity rights are asserted. The one-year pre-clearance provision for markets 1-50 is designed primarily for the benefit of the copyright holders and therefore the copyright holders have the obligation to notify each cable system in markets 1-50 when a sale has been made and that the pre-clearance period is running. With regard to the exclusivity rights stemming from exclusive contracts of the local market television stations in markets 1-100, the television stations seeking protection have the obligation to notify each cable system of the exclusivity sought.

In order to be entitled to exclusivity for syndicated programming, the television station must have exclusivity rights by contract against over-the-air and cable carriage of the programming within a 35 mile area of all designated communities in the market, as explained more fully below. This exclusivity will not be recognized in a designated community of another top 100 market, unless such community is wholly within 35 miles of the designated community of the station seeking exclusivity.

For example, a Baltimore television station "significantly viewed" in Washington, D.C. would have no right to preclude the carriage of its syndicated program by means of an out-of-market television signal (e.g., from

Philadelphia or New York) carried on the Washington, D.C. cable system. This is the case since Baltimore is a designated city in a top 100 market which does not fall wholly within 35 miles of Washington, D.C., a designated city in another top 100 market. The Washington, D.C. television station, however, could preclude the carriage of a protected program on an out-of-market signal on a Washington cable system and on other cable systems located within 35 miles of Washington, D.C. Assuming that the community of the cable system were located between Washington, D.C. and Baltimore and within 35 miles of both cities, the cable system would not have to protect the Washington, D.C. or Baltimore station against each other (since both are treated as local stations in relation to the cable community), but the cable system would have to protect syndicated programming of the Washington, D.C. and Baltimore television stations against out-of-market signals (e.g., from New York).

In hyphenated top 100 markets (e.g., Kalamazoo-Grand Rapids-Muskegon-Battle Creek, Michigan, the 37th largest market), exclusivity beyond the 35 mile area of the designated community of the television station requesting protection will be recognized only to the extent that the station has contractual exclusivity against the stations in other designated communities in the hyphenated market. In such cases, the television station will be entitled to exclusivity in an area within 35 miles of the other

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designated communities in the market. For example, a station in Kalamazoo would be entitled to exclusivity with regard to its syndicated programming on cable systems within a 35 mile area of Grand Rapids (which is in excess of 35 miles from Kalamazoo) only if the Kalamazoo station has a contract providing it with exclusivity against the Grand Rapids station with regard to the programming in question.

All contracts between program suppliers (copyright holders) and television stations in effect prior to March 31, 1972, shall be presumed to be exclusive against over-the-air and cable carriage of the program within 35 miles of all designated communities in the market. Contracts entered into after March 31, 1972, must, at least, specifically provide for:

(1) program exclusivity against other television stations

(a) licensed to the designated community of the station seeking protection or

(b) licensed in other communities which are hyphenated with the community of the station seeking protection, and

(2) program exclusivity against cable dissemination of the program within 35 miles of

(a) the community of the station seeking protection or

(b) communities hyphenated with the community of the station seeking protection.

The new rules provide that those portions of the contracts between copyright holders and television stations, which are relied upon by television stations in asserting exclusivity rights, must be maintained in the public file for the television station and must be made available for public inspection. Cable systems, on the other hand, are required to maintain a log of the out-of-market television signals carried and the programs offered on those signals.

Grandfathering Rules

Cable systems in operation prior to March 31, 1972 are not required to comply with the syndicated program exclusivity rules for signals being carried prior to March 31, 1972. The requirements apply to new signals added after March 31, 1972 or if the cable system extends operations into a new community or beyond a discrete area to which it has been specifically limited by FCC order. All cable systems commencing operations after March 31, 1972 will be subject to the syndicated program exclusivity rules.

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II. Access to and Use of Non-Broadcast Channels

The FCC has adopted new rules concerning the use of non-broadcast channels. These rules relate to public access channels, educational access channels, local government access channels, leased access channels, minimum channel capacity, availability of additional channels upon demand, two-way communications and cablecasting (program origination).

Television Markets 1-100

The requirements listed below are applicable only to cable systems located within the top 100 television markets (i.e., to cable systems located, in whole or in part, within 35 mile zones of designated cities in the top 100 television markets). These requirements are applicable to all cable systems within the top 100 markets that commence operation on or after March 31, 1972. Cable systems that commence operations before March 31, 1972 have five years (or until March 31, 1977) within which to comply with the requirements. However, if cable systems begin to provide any of the access services described below earlier than March 31, 1977, they must then comply with the rules governing the use of such channels (i.e., program content control, assessment of costs and operating rules). Cable systems which receive certificates of compliance to add television signals to their operations earlier

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than March 31, 1977, must comply with the requirements outlined in items 4-10 below by the time they add the additional signals.

(1) Minimum Channel Capacity: Each cable system must have at least a minimum channel capacity of 20 channels (120 MHz of band width) available for immediate or potential use.

(2) Additional Channels: For each channel utilized to carry television broadcast signals, the cable system must provide a channel (6 MHz in width) suitable for non-broadcast uses. For example, if a cable system has 11 channels on which it carries the signals of television stations, it must then have 11 other channels available for non-broadcast use.

(3) Two-Way Communications: Each cable system must maintain a plant having the technical capacity for non-voice return communication. However, two-way capacity for each subscriber will not be required at this time.

(4) Public Access Channels: Each cable system is required to maintain at least one special designated, non-commercial public access channel available on a first-come, non-discriminatory basis to any member of the public or community group which desires to use it. The cable system is required to maintain and have available for public use at least the minimal equipment and facilities necessary for the

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production of programming on this channel. This channel may be used for other purposes when it is not being used as a public access channel, provided that such other uses do not interfere with its function as a public access channel. One public access channel must always be made available without charge, except that production costs may be assessed for live studio presentations exceeding five minutes. To the extent that the cable system has more than one public access channel, charges may be made for the use of such other public access channels. However, these charges, as well as charges for production costs for live studio presentations exceeding five minutes on the first public access channel, must be consistent with the FCC's goal of affording the public a low-cost means of television access.

(5) Educational Access Channels: Each cable system is required to maintain at least one specially designated channel for use by local educational authorities. The cable system is prohibited from imposing any charge for the use of this channel during a period beginning at the commencement of cable television service in the community and lasting until five years after completion of the basic trunk line of the system. The FCC stated that it would consider the question of whether to permit charges on this channel after this initial experimental period has expired.

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(6) Local Government Access Channels: Each cable system is required to maintain at least one specially designated channel for local government uses. The prohibition against charges for this use of this channel is the same as that which is applicable to educational access channels, above.

(7) Leased Access Channels: Each cable system is required to offer unused channels and unused portions of the specifically designated access channels (i.e., public access, educational access, and local governmental access channels) for a lease to the public. Any lease of the unused portion of the specifically designated channels must be subject to the understanding that it is subject to displacement if there is a demand to use the channels for their specifically designated purpose. On at least one of the leased channels, priority must be given to part-time users. There are no restrictions on the rates which may be charged for these leased channels, although the Commission may become concerned if such rates are unreasonable.

(8) Expansion of Access Channel Capacity: Cable systems are required to make additional access channels available as the demand arises. The FCC established the following complex formula to determine when a new channel must be operational: whenever all of the channels described in items 4-7 are in use during 80% of the week days, Monday-Friday, for 80% of the time during any consecutive three-hour

period for six consecutive weeks, the cable system will be afforded a six month period within which to make a new channel available for public access.

(9) Program Content Control: Each system is required to refrain from exercising any control over program content on any of the channels described in items 4-7 above. However, this limitation is not intended to prevent the cable system from taking appropriate steps to ensure compliance with the operating rules for these channels as described below.

(10) Operating Rules: In connection with the public access channels, each system is required to establish rules (a) requiring first-come, non-discriminatory access to members of the public; (b) prohibiting the presentation of advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); (c) prohibiting the presentation of lottery information and obscene or indecent material; and (d) permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time; such a record to be retained by the cable system for a period of two years.

In connection with educational access channels, each cable system is required to establish rules which contain the standards described in (b) (c) (d) above for public access channels.

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In connection with leased channels, each cable system is required to establish rules (a) requiring first-come, non-discriminatory access; (b) prohibiting the presentation of lottery information and obscene or indecent matter; (c) requiring sponsorship identification; (d) specifying an appropriate rate schedule; and (e) permitting public inspection of a complete record of the names and addresses of all persons or groups requesting time; such a record is required to be retained by the cable system for a period of two years.

The operating rules relating to public access, educational and leased channels are required to be filed with the FCC within ninety days after the cable system first activates any such channels. In addition, the cable system is required to make these operating rules available for public inspection at the office of the system.

The FCC's rules provide that, except where specific authority of the FCC is received, no local or state entity may prescribe any other rules concerning the number or manner of operation of any access channels other than the local government access channel. However, franchise specifications concerning the number of such channels for cable systems in operation prior to March 31, 1972 shall continue in effect.

All Communities Outside of the Top 100 Television Markets

The FCC did not impose any non-broadcast or access channel requirements on cable systems located in communities situated wholly outside of the top 100 television markets. The FCC stated that it would permit local and state franchising authorities in these areas to require cable systems to provide access service. However, the local or state authority cannot require the cable system to exceed the provisions concerning the availability and administration of access channels established by the FCC for cable systems in the top 100 television markets. Moreover, if a cable system located outside of the top 100 markets provides any access programming, it is required to comply with the Commission's Rules concerning the administration of such access channels (i.e., program content control, assessment of costs, and operating rules).

Cablecasting (Program Origination)

The rules of the FCC requiring program origination by cable systems are applicable to all cable systems having 3,500 or more subscribers regardless of the market in which the system operates. This rule is similar to an earlier one adopted by the FCC, the legality of which is at issue in a case pending before the U.S. Supreme Court.

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Although the FCC's rules do not specifically deal with the question of how the number of subscribers is computed for purposes of its program origination requirements in the case of system serving multiple communities from a single head-end, it appears that the system in each community would be considered as a separate cable system. Thus, if a cable system, utilizing a single head-end, has 2,000 subscribers in community A, 500 subscribers in community B, 2,500 subscribers in community C and 4,000 subscribers in community D, it would not be required to originate programming in communities A, B and C, but would be required to originate in community D.

The FCC's rules provide that cable systems with 3,500 or more subscribers are required (a) to operate to a "significant extent" as a local outlet by presenting program originations and (b) to have available facilities for local production and presentation of programs other than automated services. The rules further provide that such program origination must be limited to one or more designated channels which may be used for no other purpose.

The FCC rules state that cable systems located outside of the top 100 television markets are prohibited from entering into any contracts, arrangements or leases for the use of its cablecasting facilities which prevents or inhibits the use of such facilities for substantial portions of time (including the time period 6-11 P.M.) for

local programming which is designed to inform the public about controversial issues of public importance. There is no similar prohibition written into the rules applicable to cable systems located within the top 100 television markets, but we believe that, as a matter of policy, the FCC would look with disfavor on an arrangement which inhibits the use of cablecasting facilities in a top 100 market.

All cable systems which engage in program origination (either because they are required to originate by virtue of the fact that they have 3,500 or more subscribers or because they voluntarily engage in originations, i.e., those with fewer than 3,500 subscribers) are required to meet standards established by the FCC in conducting their program origination operations. The FCC has imposed standards in the following areas of program origination: programming involving candidates for public office; the Fairness Doctrine (including personal attacks and political editorials); prohibitions against the dissemination of lottery information and obscene or indecent matter; advertising standards; sponsor identification requirements; and requirements concerning program origination channels for which a per-program or per-channel charges are made. Congress has separately provided that the new Federal Elections Campaign Act of 1971 shall apply to cable systems.

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III. Federal-State/Local Regulatory Relationships

The FCC rules provide that, in order for a cable system to obtain a certificate of compliance, it must first have a franchise or other appropriate authorization that contains specific provisions consistent with the franchise requirements established by the FCC. All new cable systems which commence operations after March 31, 1972 are required to have conforming franchises when they seek certificates of compliance to authorize the commencement of service. Cable systems in operation prior to March 31, 1972 will be required to certify within five years (i.e., on or before March 31, 1977) or on the renewal of its franchise, whichever comes first, that their franchises meet the requirements of the FCC rules. Cable systems in operation prior to March 31, 1972 will be afforded this additional time period within which to obtain conforming franchises even if the cable systems file certificates of compliance after March 31, 1972 in order to add a new television signal to an existing operation.

The franchise requirements (i.e., those standards which should be specified in the franchise) imposed by the FCC are as follows:

1. The franchisee's legal, character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements must be

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approved by the franchising authority as part of a full public proceeding. The FCC stated that it would expect franchising authorities to publicly invite applications, that all applications will be placed on public file, that notice of such filings will be given, that where appropriate a public hearing will be held to afford all interested persons an opportunity to testify on the qualifications of the applicants, and that the franchising authority will issue a public report setting forth the basis for its action.

2. The franchisee shall accomplish significant construction within one year after receiving a certificate of compliance from the FCC. Thereafter the franchisee shall equitably and reasonably extend energized trunk cable to a substantial percentage of its franchise area each year. This percentage shall be determined by the franchising authority. The FCC stated, however, that, as a general proposition, it believes that energized trunk cable should be extended to at least 20 percent of the franchise area per year, with this extension to begin within one year after the Commission issues its certificate of compliance. The FCC further stated that this 20 percent figure was not intended as an inflexible figure since local circumstances may vary from community to community.

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3. The initial franchise period and new renewal franchise shall be of reasonable duration. Although no specific duration is specified in the FCC's rules, the FCC stated that it believes that in most cases an initial franchise term should not exceed 15 years and that renewal periods be of reasonable duration. The FCC left the ultimate decision on franchise duration to the franchising authority based upon the recognition that what constitutes a reasonable period may vary depending upon particular circumstances in a given community.

4. The franchising authority has specified or approved the initial rates which the franchisee charges subscribers for installation of equipment and regular subscriber service. The FCC stated that the appropriate standard for the maintenance of rates is that such rates are fair to the cable system and to the subscribing public -- a matter that will depend upon the facts of each particular case. The rules of the FCC further provide that there shall be no changes in rates charged to subscribers except as authorized by the franchising authority after an appropriate public proceeding in which interested parties have the right to participate.

5. The franchisee shall specify procedures for the investigation and resolution of all complaints relating to the quality of service, equipment malfunctions and similar matters. The franchisee shall maintain a local business office or agent in the community for these purposes.

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6. If the Commission amends or modifies its requirements concerning the provisions of franchises, such new requirements shall be incorporated into the franchise within one year of the adoption of the modification or amendment by the FCC or at the time of franchise renewal, whichever occurs first.

7. The FCC rules provide that the franchise fee must be reasonable, e.g., in the range of 3 to 5 percent of the franchisee's gross subscriber revenues per year (including all forms of consideration such as initial lump sum payments). However, if the franchisee fee exceeds 3 percent of such revenues, the FCC will not issue a certificate of compliance to the cable system until the reasonableness of the franchise fee is approved by the FCC upon (a) a showing by the franchisee that the fee in excess of 3 percent will not interfere with the effectuation of the goals established by the FCC for cable systems and (b) a showing by the franchising authority that the fees in excess of 3 percent are appropriate in light of its planned local regulatory program for cable systems. Cable systems which were in operation prior to March 31, 1972 are not required to comply with the requirement concerning reasonable franchise fees until the end of its current franchise period or March 31, 1977, whichever occurs first.

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IV. Technical Standards

The FCC has adopted technical standards which apply to CATV systems in all markets, regardless of size. The more important of these requirements are as follows:

1. CATV operators are required to conduct complete performance tests of each system at least once during every calendar year and are required to keep the data resulting from such tests on file at the system's local office for at least five years. The rules do not require that the test data be filed with the FCC, but the data must be made available for inspection by the FCC upon request.

2. The rules establish standards by which the performance tests are to be made; in general terms, the tests are to be made under normal operating conditions -- i.e., with amplifiers operated at normal gains -- and with substitute carriage or pilot signals utilized where necessary to approximate normal operations.

3. The rules establish standards for the frequency boundaries of cable television channels delivered to subscriber terminals; the boundaries are those normally operative within the receiver's capabilities except that, upon a special showing, other channel arrangements such as those provided by rediffusion may be made. Minimum standards for the signal levels of the visual carrier and the aural carrier are also established, as well as relative

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4. The rules specify the permissible level of radiation from a CATV system. The levels are as follows:

Frequency	Radiation Limit (MV/M)	Distance (feet)
Up to 54 MHz	15	100
Over 54 up to and including 216 MHz	20	10
Over 216 MHz	15	100

5. If the operation of the CATV system causes harmful interference to the reception of authorized radio stations, the rules require that the operator take whatever steps are necessary to remedy the interference; similarly, the CATV operator is responsible for the suppression of receiver-generated interference distributed by the system when the interfering signals are introduced into the system at the receiver.

6. There is no grandfathering provision with regard to the radiation limits which become effective on March 31, 1972 and will apply to all cable systems. Similarly, the requirement that annual performance tests be made, and the rules governing the making of such tests become effective on March 31, 1972, and will apply to all cable systems. However, systems in operation on March 31, 1972 need not comply with the other technical standards (e.g., requirements concerning signal levels) until March 31, 1977.

RULES

of the

COMMISSION ON CABLE TELEVISION

of the

STATE OF NEW YORK

SUBTITLE R

Commission on Cable Television

PART

590 Practice and Procedure—General
591 Procedures Applicable to Rule Making
592 Procedures Applicable to Hearings
593 Delegations of Authority
594 Franchising Procedures
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596 Technical Standards
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598 Applications by Landlords Pursuant to Section 828(1)(b)

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PART 590

PRACTICE AND PROCEDURE—GENERAL

(Statutory authority: Executive Law, art. 28, §§ 815, 816, 821)

Sec.		Sec.	
590.1	Offices and office hours	590.13	Withdrawal of papers
590.2	Definitions	590.14	Changes in information furnished to the commission
590.3	Requests for commission action	590.15	Mailing address and telephone number to be furnished by cable television companies
590.4	Oppositions and replies	590.16	Availability of logs and records for commission inspection
590.5	Subscribers' complaints; procedure	590.17	Form of commission orders
590.6	Proceedings before the commission	590.18	Declaratory rulings
590.7	Intervention in commission proceedings	590.19	Petitions for reconsideration
590.8	Practice before the commission	590.20	Ex parte communications
590.9	Notice to authorized representatives	590.21	Computation of time
590.10	Censure or suspension of persons appearing before the commission	590.22	Suspension, amendment, or waiver of rules
590.11	Form of papers filed with the commission		
590.12	Service of papers and proof of service		

Historical Note

Part (§§ 590.1—590.22) added, filed Apr. 17, 1973.

Section 590.1 Offices and office hours. The commission's offices are located in the Alfred E. Smith State Office Building, Albany, New York, 12225. The commission's normal business hours are from 8:45 a.m. to 5 p.m.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.2 Definitions. The words and phrases defined in section 812 of the Executive Law shall be accorded their statutory definitions and meanings wherever such words and phrases are used in this Subtitle.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.3 Requests for commission action. Any motion, petition, application or other request for commission action should set forth clearly and concisely the facts relied upon, the relief sought, any statutory provisions and/or other legal authority pursuant to which the request is filed and under which relief is sought, and the interest of the person submitting the request.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.4 Oppositions and replies. (a) Except as otherwise provided in this Subtitle or by commission order, oppositions to any motion, petition, application or other request shall be filed within 20 days after the original pleading is filed. A copy of the opposition shall be served on the person who filed the original request for commission action. The person who filed the original request for commission action may reply to oppositions within 10 days after the time for filing oppositions has expired. The reply shall be limited to matters raised in the oppositions, and the response to all such matters shall be set forth in a single pleading; separate replies to individual oppositions shall not be filed. A copy of the reply shall be served on any person who has served and filed an opposition to the original request for commission action. Additional pleadings may be filed only if specifically authorized by the commission.

230.508 EX 4-30-73

(b) As a matter of discretion, the commission may rule upon motions for continuances and extensions of time, requests for permission to file pleadings in excess of the length prescribed in this Subtitle and requests for temporary relief, without waiting for the filing of oppositions or replies.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.5 Subscribers' complaints; procedure. Written complaints by cable television subscribers will be accepted by the commission in any form. The procedure with respect to such complaints shall be as follows:

(a) Whenever a subscriber complaint is filed, the cable television company named therein will be served by the commission with a copy of the complaint and a written notice calling the complaint to its attention and requesting a statement concerning the matter. The commission also will forward a copy of the complaint to the chief executive officer of the municipality in which the complainant resides. Within 10 days, or such other period as may be specified in the notice, the cable television company shall submit a written answer to the commission, in duplicate, and shall serve a copy of said answer on the complainant and on the chief executive officer of the municipality. The answer must contain a statement of the action that has been taken to resolve the complaint and/or to preclude any recurrence of the matter complained of.

(b) Where numerous complaints are made, or where it appears that complaints have not been resolved, the commission may make further inquiry, which may be formal or informal, and which may include a hearing or oral argument, or both.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.6 Proceedings before the commission. (a) The commission may, on its own motion or on petition of any interested party, hold such proceedings as it may deem necessary in connection with any matter which it has power to investigate under the law, or for the purpose of obtaining information necessary or helpful in the determination of its policies, the carrying out of its duties or the formulation or amendment of its rules and regulations. Procedures to be followed by the commission shall, unless specifically prescribed in this Part, be such as in the opinion of the commission will best serve the purposes of such proceedings.

(b) Proceedings are initiated by commission order or, in the case of rulemaking proceedings, by notice of proposed rulemaking. Whenever a proceeding is initiated, the commission will assign a docket number to the proceeding and will maintain, under that number, a public record on which an entry shall be made for all papers filed, and actions taken, in said proceeding.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.7 Intervention in commission proceedings. Intervention in commission proceedings may be as a matter of right or upon permission of the commission, as hereinafter specified.

(a) The following persons may intervene as of right in commission proceedings by filing a notice of intervention identifying the proceeding and stating, briefly, the position of the intervenor with respect to the matter in question:

(1) The Federal Communications Commission (FCC);

(2) Any municipality of the State of New York whose interest is directly affected by the matter in question.

(b) Upon petition, the commission may authorize intervention in any proceeding by any person who demonstrates a substantial interest in the subject matter of the proceeding.

(c) Any person who intervenes or who is permitted to intervene in any proceeding in accordance with subdivisions (a) and (b) of this section shall be deemed a party to said proceeding. Intervention may be permitted upon such reasonable terms and conditions as the commission may prescribe.

Historical Note

Sec. added, filed Apr. 17, 1978.

590.8 Practice before the commission. (a) Any party to a commission proceeding may be heard in person or by any authorized representative.

(b) Any person transacting business with the commission in a representative capacity may be required to show his authority to act in such capacity in a form satisfactory to the commission.

Historical Note

Sec. added, filed Apr. 17, 1978.

590.9 Notice to authorized representatives. With respect to any matter pending before the commission in which an authorized representative has appeared for, submitted a document on behalf of, or been otherwise designated to represent any person, any commission notice, order or other written communication pertaining to that matter will be communicated to the authorized representative, or to one of such authorized representatives if more than one is designated. If direct communication with a person so represented is appropriate, a copy of such communication will be mailed to the authorized representative.

Historical Note

Sec. added, filed Apr. 17, 1978.

590.10 Censure or suspension of persons appearing before the commission. (a) The commission may censure or suspend from practice before the commission any person who has practiced, is practicing or is holding himself out as entitled to practice before it, if it finds that such person:

(1) is lacking in character or professional integrity; and/or

(2) has displayed toward the commission or any of its hearing officers conduct which, if displayed toward any court of the State, would be cause for censure, suspension or disbarment.

(b) Before any person shall be censured or suspended by the commission, charges shall be preferred by the commission against said person and he shall be afforded an opportunity to be heard thereon.

Historical Note

Sec. added, filed Apr. 17, 1978.

590.11 Form of papers filed with the commission. (a) All papers filed with the commission shall, unless otherwise specifically provided, be on paper 8½ by 11 inches, with left hand margin not less than one and one-half inches wide. This requirement shall not apply to original documents, or admissible copies thereof, offered as exhibits or to specially prepared exhibits. Papers may be typewritten and me-

chanically reproduced, or printed in 10-point or 12-point type. Carbon copies shall not be filed. All typewritten papers shall be double spaced, except that long quotations shall be singled spaced and indented. All copies must be clearly legible.

(b) Except as otherwise specifically provided by order, an original and 10 copies of all papers shall be filed.

(c) The original of all pleadings shall be signed by either the filing party or by at least one authorized representative in his individual name, whose address shall be stated. The signature shall be preceded by a statement that the signer has read the document, that to the best of his knowledge, information and belief the facts asserted therein are true and correct, and that the pleading is not interposed for purposes of delay.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.12 Service of papers and proof of service. (a) Where any person is required by statute or by the provisions of this Subtitle to serve any paper, service shall be made in accordance with the provisions of this section.

(b) Service shall be made on or before the day on which the paper is filed.

(c) Papers may be served upon a party, his authorized representative, or other duly constituted agent by delivery of a copy or by mailing a copy to the last known address. When a party is represented by an authorized representative of record, service shall be made upon such authorized representative.

(d) Delivery of a paper pursuant to this section means handing a copy thereof to the party, his authorized representative or other duly constituted agent; or leaving it with the clerk or other person in charge of the office of the person being served; or, if there is no one in charge of such office, by leaving it in a conspicuous place therein; or, if such office is closed or the person to be served has no office, by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

(e) Service by mail is complete upon mailing. Such mailing shall be by first class mail. Whenever a period of time prescribed by law or by this Subtitle is measured from the service of a paper and service is by mail, three days shall be added to the prescribed period.

(f) Proof of service shall be filed with the commission. The proof of service shall show the time and manner of service, and may be by written acknowledgment of service, by certificate of the person effecting the service or by other proof satisfactory to the commission. The commission may allow the proof to be amended or supplied at any time, unless to do so would result in material prejudice to any person.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.13 Withdrawal of papers. The commission will retain at least one copy of every paper presented to it for filing. The granting of a request to dismiss or withdraw a pleading does not authorize the removal of such pleading from the commission's records.

Historical Note

Sec. added, filed Apr. 17, 1973.

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590.14 Changes in information furnished to the commission. Any person requesting commission action is responsible for the continuing accuracy and completeness of information furnished in a pending request for such action or in commission proceedings involving any pending request. Whenever the information furnished in a pending request is no longer substantially accurate and complete in all significant respects, the person seeking commission action shall as promptly as possible, and in any event within 30 days, unless good cause is shown, amend his request so as to furnish such additional or corrected information as may be appropriate. Whenever an event of decisional significance with respect to a pending request for commission action occurs, the party seeking such action shall as promptly as possible, and in any event within 30 days, unless good cause is shown, submit a statement to the commission furnishing such additional or corrected information as may be appropriate and shall serve the same upon all parties of record. Where the matter is before any court for review, the amendments and statements referred to above shall also be served upon the commission's counsel of record in the court proceeding. For the purposes of this section, a request for commission action is "pending" before the commission from the time it is accepted for filing by the commission until a commission grant or denial of the request is no longer subject to reconsideration by the commission or to review by any court.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.15 Mailing address and telephone number to be furnished by cable television companies. (a) Every cable television company shall furnish the commission with an address and telephone number to be used by the commission in serving documents or directing correspondence to that company and shall promptly notify the commission of any change of said address or telephone number. Unless any company advises the commission to the contrary, the address and telephone number contained in the company's most recent application will be used by the commission for this purpose.

(b) The company is responsible for making any arrangements which may be necessary to assure that commission documents or correspondence delivered to its address will promptly reach a responsible person authorized by the company to act in its behalf.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.16 Availability of logs and records for commission inspection. All records and logs of any cable television company shall be made available for inspection or duplication at the request of the commission or its representative. Such logs or records may be removed from the company's possession by a commission representative or, upon request, shall be mailed by the system to the commission by certified mail, return receipt request. The return receipt shall be retained by the company as part of its records until such records or logs are returned to the company. A receipt shall be furnished when the logs or records are removed from the comany's possession by a commission representative, and this receipt shall be retained by the company as part of its records until such records or logs are returned to the company.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.17 Form of commission orders. Orders may be issued in any form (e.g. as captioned orders, letters, telegrams) and may, if appropriate, be issued orally.

Orders issued orally shall be confirmed promptly in writing. All written orders will indicate the date on which they are released by the commission. All written orders will be available for public inspection at the commission's offices.

Historical Note
Sec. added, filed Apr. 17, 1973.

590.18 Declaratory rulings. The commission may, on motion or on its own motion, issue a declaratory ruling terminating a controversy or removing an uncertainty.

Historical Note
Sec. added, filed Apr. 17, 1973.

590.19 Petitions for reconsideration. (a) Any party aggrieved by a final commission order may file a petition for reconsideration of said order. For purposes of this section, "final commission order" shall include final orders made on behalf of the commission pursuant to the authority delegated in this Subtitle.

(b) The petition for reconsideration shall cite the findings of fact and/or conclusions of law which the petitioner believes to be erroneous and shall state with particularity the respects in which the petitioner believes such findings and conclusions are in error and should be changed. The petition may request that additional findings of fact and conclusions of law be made.

(c) The petition for reconsideration shall be filed within 20 days from the date of release of the challenged order. The petition shall be served upon all parties to the proceeding. The petition shall not exceed 15 double-spaced typewritten pages.

(d) Oppositions to a petition for reconsideration shall not be filed, unless the commission otherwise orders.

(e) If the commission grants the petition for reconsideration in whole or in part, it may, in its order, rule on the merits of the petition. In the alternative, the commission may, in its order granting the petition, order such further procedure as may be useful to it in reaching a decision on the merits of the petition. In the latter event, the commission's ruling on the merits will be deferred pending completion of such procedure.

(f) No evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the commission believes should have been taken in the original proceeding shall be taken on any rehearing ordered pursuant to the provisions of this section.

(g) The commission may, on its own motion, set aside any order within 20 days after release of the order.

Historical Note
Sec. added, filed Apr. 17, 1973.

590.20 Ex parte communications. In order to avoid all possibilities of prejudice, real or apparent, to the public interest and to persons involved in proceedings pending before the commission, no person who is a party, witness or interceder in any on-the-record proceeding, nor any representative of any such person, shall submit ex parte off-the-record communications to any member of the commission or to any employee of the commission regarding any matter at issue in such on-the-record proceeding, except as authorized by law; and no commissioner nor any employee shall request or entertain any such ex parte, off-the-record communications. For the purposes of this section, the term "on-the-record proceeding" means a proceeding required by statute, constitution, or published commission rule, regu-

lation or order to be decided on the basis of the record of a commission hearing; the term "intercedor" shall include any individual outside the commission (whether in private or public life), partnership, corporation, association, or other agency, other than a party or an agent of a party, who volunteers a communication.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.21 Computation of time. (a) Where it is necessary to compute the terminal date of a filing period where the period begins with the occurrence of an act, event, or default, this period shall begin with the day after the day on which the act, event or default occurs. The last day of such period of time is included in the computation, and any required action must be taken on or before that day.

(b) All petitions, pleadings, or other documents filed with the commission must be tendered for filing in complete form during the commission's normal business hours.

(c) If a filing deadline falls on a non-business day, the document may be filed on the next business day.

Historical Note

Sec. added, filed Apr. 17, 1973.

590.22 Suspension, amendment, or waiver of rules. The provisions of this Subtitle may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the commission.

Historical Note

Sec. added, filed Apr. 17, 1973.

PART 591

PROCEDURES APPLICABLE TO RULE MAKING

(Statutory authority: Executive Law, art. 28, §§ 815, 816, 821)

Sec.
591.1 Petitions for rule making
591.2 Action on petitions
591.3 Commencement of rule making proceedings
591.4 Notice of proposed rule making
591.5 Content of notice
591.6 Comments and replies
591.7 Form of comments and replies; number of copies
591.8 Oral argument and other proceedings
591.9 Commission action; effective date

Historical Note

Part (§§ 591.1—591.9) added, filed Apr. 17, 1973.

Section 591.1 Petitions for rule making. (a) Any interested person may petition for the adoption, amendment or repeal of a rule.

(b) The petition for rule making shall conform to the requirements of Part 590 of this Subtitle.

(c) The petition shall set forth the text or substance of the proposed rule, amendment, or rule to be repealed, together with all facts, views, arguments and data deemed to support the action requested, and shall indicate how the interests of the petitioner will be affected.

Historical Note

Sec. added, filed Apr. 17, 1973.

591.2 Action on petitions. If the commission determines that the petition discloses sufficient reasons in support of the action requested to justify the institution

of a rule making proceeding, and if notice and public proceedings thereon are required or deemed desirable by the commission, an appropriate notice of proposed rule making will be issued. In those cases where notice and public proceedings thereon are not required, the commission may issue a final order adopting, amending or repealing the rules. In all other cases, the petitioner will be notified of the commission's action and the ground therefor.

Historical Note
Sec. added, filed Apr. 17, 1973.

591.3 Commencement of rule making proceedings. Rule making proceedings are commenced by the commission either on its own motion or on the basis of a petition for rule making.

Historical Note
Sec. added, filed Apr. 17, 1973.

591.4 Notice of proposed rule making. (a) Except as provided in subdivisions (b) and (c) of this section, prior notice of proposed rule making will be given. Notice will be given by publication of a notice of proposed rule making in a newspaper or newspapers of general circulation in the area or areas affected by the proposed rule. Copies of the notice also may be released by the commission, and a copy is available to interested persons in the commission's offices.

(b) Rule changes (including adoption, amendment, or repeal of a rule or rules) relating to the following matters will ordinarily be adopted without prior notice:

(1) any matter relating to commission management or personnel;

(2) interpretative rules;

(3) general statements of policy;

(4) rules of commission organization, procedure, or practice.

(c) Rules changes also may be adopted without prior notice in any situation in which the commission finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. In such instances, the findings of good cause and a statement of the basis for that finding will be published with the rule changes.

Historical Note
Sec. added, filed Apr. 17, 1973.

591.5 Content of notice. A notice of the proposed adoption, amendment, or repeal of a rule will include the following:

(a) Reference to the authority under which the adoption, amendment, or repeal of a rule is proposed.

(b) Either (1) the express terms of the proposed rule or (2) a description of the substance of the proposed rule and the subjects and issues involved and a reference to where the express terms may be obtained.

(c) The docket number assigned to the proceeding.

(d) A statement of the time for filing comments and replies thereto.

(e) A statement of the time, nature, and place of any public rule making proceeding to be held.

Historical Note
Sec. added, filed Apr. 17, 1973.

591.6 Comments and replies. (a) After notice of proposed rule making is issued, the commission will afford interested persons an opportunity to participate

in the rule making proceeding through submission of written data, views, or arguments, with or without opportunity to present the same orally.

(b) A reasonable time will be provided for submission of comments in support of or in opposition to proposed rules, and the time provided will be specified in the notice of proposed rule making.

(c) A reasonable time may be provided for filing comments in reply to the original comments, and the time so provided may be specified in the notice of proposed rule making or in a subsequent notice.

(d) No additional comments may be filed unless specifically requested or authorized by the commission.

Historical Note

Sec. added, filed Apr. 17, 1973.

591.7 Form of comments and replies; number of copies. (a) Comments, replies, and other documents filed in a rule making proceeding shall conform to the requirements of Part 590 of this Subtitle.

(b) An original and 10 copies of all comments, replies, briefs, and other documents filed in a rule making proceeding shall be furnished the commission.

Historical Note

Sec. added, filed Apr. 17, 1973.

591.8 Oral argument and other proceedings. In any rule making proceeding where the commission determines that an oral argument, hearing or any other type of formal proceeding is necessary or appropriate, notice of the time, place and nature of such proceeding will be published and will be served on all parties of record to the proceeding.

Historical Note

Sec. added, filed Apr. 17, 1973.

591.9 Commission action; effective date. The commission will issue an order briefly explaining the adoption, amendment, or repeal of any rule and will specify the effective date of its action in the order.

Historical Note

Sec. added, filed Apr. 17, 1973.

PART 592

PROCEDURES APPLICABLE TO HEARINGS

(Statutory authority: Executive Law, art. 28, §§ 815, 816, 821)

Sec.		Sec.	
592.1	Hearings	592.5	Examination of witnesses
592.2	Presiding officers; powers; disqualification	592.6	Exhibits
		592.7	Official notice
592.3	Notice of hearing	592.8	Adjournments and extensions
592.4	Transcript of testimony; copies of documents submitted	592.9	Briefs

Historical Note

Part (§§ 592.1—592.9) added, filed Apr. 17, 1973.

Section 592.1 Hearings. This Part shall be applicable to proceedings which have been designated for hearing.

Historical Note

Sec. added, filed Apr. 17, 1973.

592.2 Presiding officers; powers; disqualification. (a) Hearings may be conducted by the commission or any of its members or by any person designated by the commission.

(b) Whenever the commission designates a presiding officer, that officer from the time he is designated to preside until issuance of his decision or the transfer of the proceeding to the commission or to another presiding officer, shall have such authority as is vested in him by law and by the provisions of this Subtitle, including authority to:

(1) administer oaths and affirmations;

(2) issue subpoenas;

(3) examine witnesses;

(4) rule upon questions of evidence;

(5) take or cause depositions to be taken;

(6) regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaging in contemptuous conduct or otherwise disrupting the proceedings;

(7) require the filing of briefs or memoranda of law and the presentation of oral argument with respect to any question of law upon which he required to rule during the course of the hearing;

(8) hold conferences for the settlement or simplification of the issues by consent of the parties;

(9) dispose of procedural requests or similar matters;

(10) take actions and make decisions or recommend decisions in conformity with this Subtitle and such orders as the commission may issue governing the conduct of any proceeding.

(c) Any party may request the presiding officer to withdraw on the grounds of personal bias or other disqualification. The person seeking disqualification shall file with the presiding officer an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification. Such affidavit shall be filed not less than five days before the commencement of the hearing unless, for good cause shown, additional time is necessary.

(d) In the event that a presiding officer deems himself disqualified and desires to withdraw from the case, he shall notify the commission of his intention to withdraw as soon as practicable.

Historical Note

Sec. added, filed Apr. 17, 1973.

592.3 Notice of hearing. (a) Upon designation of a matter for hearing, the commission will issue an order containing the following:

(1) a statement as to the matters of fact and law involved, and the issues upon which evidence will be taken;

(2) a statement as to the time, place, and nature of the hearing. (If the time and place are not specified, the order will indicate that the time and place will be specified at a later date);

(3) a statement as to the legal authority and jurisdiction under which the hearing is to be held;

(4) the name of the presiding officer before whom the hearing will be held.

(b) The order designating a matter for hearing will be served on all parties to the proceeding. The commission also may require that the hearing be advertised by newspaper publication.

Historical Note

Sec. added, filed Apr. 17, 1973.

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592.4 Transcript of testimony; copies of documents submitted. In any proceeding before the commission, any person submitting data or evidence, whether acting under direction or voluntarily, shall have the right to retain a copy thereof, or to procure a copy of any document submitted by him or of any transcript made of his testimony. The commission will designate an official reporter for the recording and transcribing of hearings and oral arguments. The transcript of the testimony taken, or argument had, will not be furnished by the commission, but will be open to inspection at the commission's offices. Copies of such transcript, if desired, may be obtained from the official reporter upon payment of the charges therefor.

Historical Note
Sec. added, filed Apr. 17, 1973.

592.5 Examination of witnesses. Parties will be afforded reasonable opportunity to examine and cross-examine witnesses. Witnesses and parties shall have the right to counsel.

Historical Note
Sec. added, filed Apr. 17, 1973.

592.6 Exhibits. Two copies of each written exhibit shall be furnished the commission and additional copies shall be furnished to the parties.

Historical Note
Sec. added, filed Apr. 17, 1973.

592.7 Official notice. The commission may take official notice of all facts of which judicial notice might be taken and of other facts within its specialized knowledge. Where any decision rests on official notice of a material fact not appearing in the record, any party shall on timely request be afforded an opportunity to dispute the fact or its materiality.

Historical Note
Sec. added, filed Apr. 17, 1973.

592.8 Adjournments and extensions. All parties shall be prepared to proceed at the first hearing in any proceeding. Adjournments of any hearing may be granted by the commission or by the presiding officer upon motion for good cause shown.

Historical Note
Sec. added, filed Apr. 17, 1973.

592.9 Briefs. Briefs will be received and may be required in any proceeding set for hearing. The presiding officer will fix the time within which briefs may be filed and briefs received subsequent to such time may not be considered. Unless otherwise ordered, briefs shall not exceed 40 pages. A copy of any brief submitted pursuant to this section shall be served on all parties to the proceeding.

Historical Note
Sec. added, filed Apr. 17, 1973.

PART 593

DELEGATIONS OF AUTHORITY

(Statutory authority: Executive Law, art. 28, §§ 815, 816, 821)

Sec.
593.1 General provisions
593.2 Authority of person or board to whom functions are delegated
593.3 The exercise of delegated authority
593.4 Authority delegated to chairman
593.5 Authority delegated to board of commissioners
593.6 Authority delegated to executive director and counsel

Historical Note

Part (§§ 593.1—593.6) added, filed Apr. 17, 1973.

Section 593.1 General provisions. (a) Delegations are arranged in this Part under headings denoting the persons or board to whom authority has been delegated.

(b) The commission, by vote of a majority of the members then holding office, may delegate its functions either by rule or by order, and may at any time amend, modify, or rescind any such rule or order.

Historical Note

Sec. added, filed Apr. 17, 1973.

593.2 Authority of person or board to whom functions are delegated. (a) Except as provided elsewhere in this Subtitle, the person or board to whom functions are delegated shall, with respect to such functions, have all the jurisdiction, powers, and authority conferred by law upon the commission, and shall be subject to the same duties and obligations.

(b) Except as provided elsewhere in this Subtitle, any action taken pursuant to delegated authority shall have the same force and effect and shall be made, evidenced, and enforced in the same manner as actions of the commission.

Historical Note

Sec. added, filed Apr. 17, 1973.

593.3 The exercise of delegated authority. (a) Any official (or group of officials) to whom authority is delegated in this Part is authorized to issue orders pursuant to such authority and to enter into general correspondence concerning any matter for which he is responsible under this Part.

(b) Authority delegated to any official to issue orders or to enter into correspondence under subdivision (a) of this section may be exercised only by that official.

(c) Except as otherwise provided in this Subtitle, actions taken as provided in subdivision (a) of this section shall be noted in writing, called to the commission's attention at its next regularly scheduled session, and thereafter recorded in the official minutes of the commission.

Historical Note

Sec. added, filed Apr. 17, 1973.

593.4 Authority delegated to chairman. The responsibility for the general administration of the internal affairs of the commission is delegated to the chairman of the commission. The chairman will keep the commission advised concerning his actions taken under this delegation of authority. This auhority extends to:

(a) Actions of routine character;

(b) Actions taken by the chairman as contracting officer for the commission, including actions designating appropriate subordinate officials to act as contracting officers for the commission.

Historical Note

Sec. added, filed Apr. 17, 1973.

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593.5 Authority delegated to board of commissioners. (a) Whenever the chairman of the commission, or, in his absence, the vice-chairman, determines that a quorum of the commission is not able to act, he may convene a board of commissioners. The board shall be composed of all commissioners able to act and, if necessary, may be composed of a single commissioner.

(b) The determination required by subdivision (a) of this section may be made only after the convening authority has notified, or attempted to notify, all commissioners of his intention to convene a board.

(c) A board of commissioners is delegated authority to act upon all matters normally acted upon by the full commission, except the following:

(1) the final determination on the merits of any proceeding, except upon a finding by the board that the public interest would be disserved by awaiting the convening of a quorum of the commission;

(2) petitions for reconsideration.

Historical Note

Sec. added, filed Apr. 17, 1973.

593.6 Authority delegated to executive director and counsel. The commission's executive director, or, in his absence, counsel to the commission, is delegated authority:

(a) To receive emergency action notifications and to authorize emergency action necessitated by natural disasters.

(b) To act upon requests for extensions of time in which to comply with commission orders, upon a showing of a good cause.

(c) To act upon requests for extensions of time within which to file papers.

(d) To authorize withdrawal of pleadings in accordance with this subtitle.

(e) To dismiss or return applications or pleadings which are not acceptable under commission rules.

(f) To interpret this Subtitle, subject to review by the commission. Actions taken under this authority are strictly informal and shall be binding on the commission only in the event that the interpretation is expressly ratified by the commission. Persons seeking formal commission interpretations may apply for a declaratory ruling pursuant to section 590.18 of Part 590 of this Subtitle.

Historical Note

Sec. added, filed Apr. 17, 1973.

PART 594

FRANCHISING PROCEDURES

(Statutory authority: Executive Law, art. 28, §§ 815, 816, 821)

Sec.
594.0 Applicability
594.1 Summary; commission assistance
594.2 Cable television advisory committee (hereinafter referred to as advisory committee)
594.3 Final report of the advisory committee
594.4 Invitation of applications; public notice of "Request for proposals"
594.5 "Request for proposals"
594.6 Required contents of application
594.7 Investigation and due diligence required
594.8 Requirement for public hearing on reasonable notice
594.9 Timing and manner of award of franchise

Historical Note

Part (§§ 594.0–594.7) added, filed Apr. 17, 1973.

Section 594.0 Applicability.* A cable television franchise will be confirmed by the commission if, in awarding the franchise, the municipality complies with the procedures set forth in this Part.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

594.1 Summary; commission assistance. (a) The rules contained in this Part describe the steps that municipalities are required to follow in awarding a cable television franchise. They provide for the establishment of a cable television advisory committee and define its responsibilities (§ 594.2), including its responsibility for preparation of a final report to the municipality (§ 594.3). They also establish a procedure for inviting franchise applications by means of a public notice (§ 594.4) advertising the availability of a "request for proposals" (§ 594.5). They specify the required contents of franchise applications (§ 594.6) and contain requirements for investigation by the municipality of the franchise applicants (§ 594.7) and for a public hearing prior to the award of any franchise (§ 594.8). Finally, there are provisions governing the timing and manner of franchise awards (§ 594.9).

(b) The commission, pursuant to section 815(3) of the Executive Law, will provide advice and technical assistance to municipalities in connection with the requirements of this Part. Municipalities are encouraged to jointly or cooperatively undertake any aspects of the franchising procedures set forth in this Part.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

594.2 Cable television advisory committee (hereinafter referred to as advisory committee). (a) *Designation of advisory committee.* Each municipality contemplating the award of a cable television franchise shall initiate the procedures contained in this Part by designating an advisory committee which, insofar as possible, shall be broadly representative of all segments of the community.

* The procedures set forth in this Part also shall be applicable to the renewal of any cable television franchise that does not contain a provision under which the franchise may renew at its option. In continuing to apply our franchising procedures to such renewals, we wish to make clear that we are giving further consideration to the entire matter of renewal procedures.

Any municipality which, prior to the effective date of this Part, has published notice inviting franchise applications, pursuant to section 594.2 of the rules adopted on an interim basis on April 13, 1973, may award a franchise in accordance with Part 594 of said interim rules.

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(b) *Notification.* Not more than 10 days after designating an advisory committee, the municipality shall:

(1) Notify the commission of its action. Such notification shall include the names and addresses of those designated to serve on the committee.

(2) Take such action as it deems appropriate to advise residents of the community that it has designated an advisory committee as the first step in the process of awarding a cable television franchise.*

(c) *Duties of the advisory committee.* The advisory committee shall:

(1) Undertake to inform themselves and the public about cable communications.

(2) Analyze the potential services that can be provided by a cable television system, and consider the economic feasibility of such services.

(3) Prepare and submit to the municipality a final written report pursuant to section 594.3 of this Part.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

594.3 Final report of the advisory committee. (a) In addition to any interim reports that the advisory committee may make to the municipality, it shall submit a final written report containing:

(1) A description of the type of cable system deemed best suited to the needs of the municipality.

(2) A document entitled "Request for Proposals" to be utilized by the municipality in connection with the invitation of franchise applications. (The required contents of a "request for proposals" are specified in section 594.5 of this Part.)

(b) Upon receipt of the final report of the advisory committee, the municipality shall:

(1) Make a copy of the report available for public inspection during normal business hours.**

(2) Consider the findings and recommendations contained in the report and, at a public session, decide whether to invite applications for a cable television franchise.

(c) If a decision is made to invite applications, the municipality shall adopt a formal "request for proposals" that conforms to the requirements of section 594.5 of this Part. The "request for proposals" submitted by the advisory committee as part of its final report is not binding on the municipality and may be modified in whole or in part.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

594.4 Invitation of applications; public notice of "request for proposals". A municipality shall invite applications for a cable television franchise by means of a public notice advertising the availability of its "requests for proposals."***

(a) The public notice shall contain, but need not be limited to:

(1) A description of the political or geographic boundaries of the area for which a franchise is sought.

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* The purpose of this requirement is to ensure that residents of the community interested in the cable television franchising process will be in a position to involve themselves in the process.

** Although no formal public notification of the completion and availability of the advisory committee report is required, the municipality and the advisory committee are encouraged to make the public aware of the availability of the final report.

*** A model public notice meeting the requirements of this section is available from the commission.

(2) A statement that a formal "request for proposals" is available to prospective applicants from a municipal officer whose name, address, and telephone number are specified.

(3) A statement that applications for the franchise must be submitted in writing in the form and manner specified in the "request for proposals" no later than a day certain (which date shall be not less than 60 days from the date of final publication of the public notice).

(4) A statement that all applications will be made available for public inspection during normal business hours at a specified location.

(b) The public notice of "request for proposals" shall be published in the following publications:*

(1) At least once in each of two different calendar weeks in the official newspaper(s) of the municipality.

(2) At least once in any two of the following publications.**

(i) *CATV Newsweekly*

(ii) *Broadcasting Magazine*

(iii) *Television Digest*

(iv) *Broadcast Management/Engineering*

(v) *TV Communications*

(c) At least 10 days prior to submitting its public notice of "request for proposals" to any magazine or newspaper for publication, the municipality shall furnish the commission true and complete copies of (1) the proposed public notice, (2) the formally adopted "request for proposals" and (3) the final report of the advisory committee.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

594.5 Request for proposals. Prior to inviting applications for any cable television franchise, a municipality shall adopt a "request for proposals" that shall contain, but need not be limited to, the following:

(a) A description of the cable television system desired by the municipality, including any system specifications established by the municipality.

(b) A statement specifying the form that all applications shall follow.

(c) A statement indicating the amount of the application fee (if any) to be submitted with the application, and the manner in which such fee is to be submitted.***

(d) A statement that all applications must contain the information required by section 594.6 of this Part.

(e) The closing date for the submission of applications (which shall be the same as that contained in the public notice).

(f) The name, address, an telephone number of a municipal official(s) who may be contacted for further information.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

594.6 Required contents of application.† Every application submitted to a municipality for a cable television franchise shall include:

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* A municipality may ask the commission for permission to substitute other publications for those indicated in the text. Such requests should indicate the appropriateness of the proposed substitute(s).

** Addresses of these publications may be obtained from the commission.

*** Application fees, if any, should be reasonable in relation to the costs of franchising procedures.

† Nothing contained herein shall preclude a municipality from requiring additional information from applicants.

(a) A description of the cable television system proposed to be constructed; such description shall contain, but need not be limited to, specifications regarding:

(1) Channel capacity, including both the total capability of the proposed system and the number of channels to be energized immediately.

(2) Television and radio broadcast signals to be carried.

(3) Extent and type of any origination cablecasting to be undertaken and the facilities, equipment, and staff to be employed therein.

(4) System layout or design, including:

(i) Location of antennae and headend(s).

(ii) Plans for two-way capability, if any, and a schedule indicating to the degree possible when two-way capability will become available from particular points.

(iii) Location of origination points and origination facilities, if any.

(iv) Extent and type of automated services to be provided, if any.

(v) Number of channels to be utilized for access cablecasting, if any; the facilities, equipment, and staff to be available to access users, if any; and access utilization or production costs, if any.

(b) The terms and conditions under which service is to be provided to educational, charitable, and governmental entities.

(c) Terms concerning rates and construction schedules which satisfy the requirements of Part 595 of the commission's rules.

(d) A statement of the applicant's experience in the cable television field, if any.

(e) To the extent possible, the names and professional experience of the persons or organizations who will be responsible for the construction, installation, and operation of the proposed system.

(f) A statement indicating whether the applicant or any of its principals owns or operates any other cable television system, newspaper, radio station, or broadcast television system, directly or indirectly, and a statement indicating the name of any such operation(s), and the name and address of the chief executive officer(s) of the franchising authority(s) in which such system or station is located.

(g) A documented plan for financing the proposed system, which plan shall indicate specifically every significant anticipated source of capital and any and all limitations and or conditions with respect to the availability of the indicated sources of capital.

(h) A statement indicating whether the applicant or any of its principals (which, in the case of a corporation shall include all officers, directors, and persons having a legal or equitable interest in five percent or more of the voting stock):

(1) has ever been convicted of a crime involving moral turpitude (including criminal fraud) or is presently under an indictment charging such a crime;

(2) has ever been held liable by any court of competent jurisdiction in any civil action based on fraud, deceit, or misrepresentation; or

(3) has ever been punished or censured in any jurisdiction for any violation or attempted violation of any law, rule, or order relating to cable television operations.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

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[1] If the statement is affirmative with respect to any of the above-mentioned adverse considerations, the applicant should include in the statement such explanatory material as it deems appropriate.

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594.7 Investigation and due diligence required. The municipality shall use due diligence to investigate and assess the technical ability, financial condition, and character of every applicant and, in particular, to ascertain the operating record and reputation of any applicant who owns or operates, or whose principals own or operate, a cable television system in other municipalities.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

594.8 Requirement for public hearing on reasonable notice. The municipality shall conduct a public hearing prior to awarding any cable television franchise. The hearing shall be preceded by reasonabe notice to each of the franchise applicants and to the public, and shall be conducted by the legislative body of the municipality in accordance with the following procedures:

(a) There shall be an agenda for the hearing which shall specify the proposal(s) to be considered at the hearing.

(b) Every person who has applied for a cable television franchise shall appear at the hearing either in person or by authorized representative. The application of any applicant not so appearing shall not be further considered, except for good cause shown.

(c) All persons shall be given full opportunity to participate in the hearing and to ask questions of any applicant or participant in the hearing, but nothing contained herein shall limit the power of the presiding officer to establish reasonable time limits and otherwise limit repetitive statements or questions.

(d) The notice of hearing shall:

(1) Conform to all relevant State and local laws and ordinances.

(2) Describe the agenda to be considered at the public hearing.

(3) Indicate that copies of all franchise applications are available for public inspection during normal business hours at a place to be specified in the notice.

(e) Where a municipality has received more than one application for a cable television franchise, the hearing required by this section shall be convened not sooner than 30 days following the closing date specified for the filing of such applications.

Historical Note

Sec. added, filed May 3, 1974.

594.9 Timing and manner of award of franchise. (a) If more than one application for a cable television franchise has been received by a municipality, a franchise may be awarded by that municipality no sooner than 30 days following the public hearing held pursuant to section 594.8 of this Part.

(b) A municipality may award a cable television franchise only if due diligence* is used to prepare a franchise agreement that will protect the interests of the residents of the municipality.

(c) Upon the award of a cable television franchise, the municipality shall issue, and make available to the public, a written report clearly setting forth its reasons for the award of the franchise and for the selection of the franchise.**

Historical Note

Sec. added, filed May 3, 1974.

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* Wherever the franchise document departs substantially from the successful applicant's original proposal, by requiring additional services, the municipality should ascertain, insofar as possible, the applicants financial ability to provide the additional services.

** If the reasons for the award of the franchise and the selection of the franchise appear in the resolution awarding the franchise, no separate written report need be prepared.

PART 595

FRANCHISE STANDARDS

(Statutory authority: Executive Law, art. 28, §§ 815, 816, 821)

Sec.
595.1 Required contents of franchises
Sec.
595.2 Additional terms and conditions permitted

Historical Note

Part (§§ 595.1—595.2) added, filed Apr. 17, 1973.

Section 595.1 Required contents of franchises. Where a cable television franchise is awarded or renewed after April 1, 1973, or where a franchise was awarded prior to said date but the franchisee had not commenced operations or substantial construction prior to January 1, 1972, the franchise will be confirmed by the commission only if it contains:

(a) Recitations indicating that:

(1) the franchisee's technical ability, financial condition, and character were considered and approved by the municipality in a full public proceeding affording due process;

(2) the franchisee's plans for constructing and operating the cable television system were considered and found adequate and feasible in a full public proceeding affording due process;

(3) the franchise complies with the commission's franchise standards; and

(4) the franchise is nonexclusive.

(b) A full description of the system proposed for construction and a schedule showing:

(1) that significant construction will be accomplished within one year after applicant's receipt of all necessary operating authorizations,

(2) that cable television service will be offered substantially throughout the authorized area within five years after receipt of such authorizations, and

(3) that cable television service will be offered throughout the authorized area within the initial term of the franchise.[1]

(c) A provision specifying that the franchisee shall construct its cable system using materials of good and durable quality and that all work involved in construction, installation, maintenance, and repair of the cable system shall be performed in a safe, thorough, and reliable manner.

(d) A provision requiring the franchisee to post security (e.g., a deposit or bond) within 30 days after receipt by the franchisee of final operating authority to guarantee the timely construction of the cable television system and the faithful performance by the franchisee of the obligations imposed by the franchise.[2]

(e) A provision setting forth with specificity all rates to be charged by the franchisee for any aspect of cable television service, or a provision certifying that the municipality and the franchisee are unable to agree upon the rate or rates

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[1] The required franchise provision should not merely track the language of this section with respect to the construction schedule but rather should specify the geographical areas to be wired, the number of homes to be passed, the miles of cable to be strung, or some other objective criterion against which the actual pace of construction may be measured. See also the second paragraph in the footnote to subdivision (e) of this section.

[2] The franchise should be specific as to the form and amount of the security, as to the conditions under which any or all of the security shall be forfeited, and as to the specific amounts to be forfeited in particular circumstances. The franchise should also be specific as to any obligation on the part of the franchise to post additional security following forfeiture of the security initially posted or any portion thereof.

to be charged and specifying that said rate(s) shall be determined by the Commission on Cable Television pursuant to section 825(5)(e) of the Executive Law.*

(f) A provision requiring that the franchisee provide notice to each subscriber, at intervals of not more than one year, of the procedure for reporting and resolving subscriber complaints. (Such notice may be written or by such other means as the commission may from time to time approve upon application by the franchisee.)

(g) A provision limiting the initial franchise term to not more than 10 years, and any renewal option exercisable by the franchisee to a term of not more than five years.

(h) A provision prohibiting the abandonment by the franchisee of any service or portion thereof without the written consent of the franchising municipality.

(i) A provision

(1) requiring the franchisee to indemnify the municipality for, and hold it harmless from, all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to the franchise and

(2) specifying minimum amounts of liability insurance to be obtained by the franchisee.

(j) A provision stating that any municipal property damaged or destroyed shall be promptly repaired or replaced by the franchisee and restored to serviceable condition.

(k) A provision stating that the franchisee will not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex.

(l) A provision reserving to the municipality the right to adopt, in addition to the provisions contained in the franchise and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power; provided, however, that such regulations are reasonable and not materially in conflict with the privileges granted in the franchise.

(m) A provision reserving to the municipality the right to inspect all pertinent books, records, maps, plans, financial statements, and other like materials of the franchisee, upon reasonable notice and during normal business hours.

(n) A provision indicating by title the office or officer of the municipality that is responsible for the continuing administration of the franchise.

(o) A severability clause identifying any franchise provisions which the municipality and the franchisee deem to be material and stating that should any other provision of the franchise be held invalid by a court or a regulatory agency of competent jurisdiction, the remaining provisions of such franchise shall remain in full force and effect.

(p) A provision stating that the terms of the franchise are subject to the approval of the Commission on Cable Television.

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* Typically, rates are specified with respect to such matters as installation of first service connection; installation of additional connections on same premises; basic monthly service for first connection; basic monthly service for additional connections; subscription channel or channels; convertors; use of leased channel or channels; and bulk service to hotels, motels and others similarly situated.

The franchise may establish reasonable terms and conditions pertaining to the extension of facilities within the franchise area. Rate differentials, if any, will be approved only if such differentials accurately reflect cost differentials incurred in extending such facilities.

Nothing contained herein shall be construed to prevent the offering, on a non-discriminatory basis, of sales promotions or other discounts not specified in the franchise.

(q) A provision requiring the franchisee to file requests for all necessary operating authorization with the Commission on Cable Television and the Federal Communications Commission within 60 days from the date the franchise is awarded.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed Feb. 21, 1974.

595.2 Additional terms and conditions permitted. Any franchise may contain such additional terms and conditions as the municipality and the franchisee deem appropriate, provided such additional terms and conditions are consistent with all Federal and State laws, rules, regulations and orders.

Historical Note

Sec. added, filed Apr. 17, 1973.

PART 596
TECHNICAL STANDARDS

(Statutory authority: Executive Law, art. 28, §§ 815, 816, 821)

Sec.		Sec.	
596.1	Definitions	596.6	Monitor point tests
596.2	Applicability	596.7	Testing by special request
596.3	Performance standards	596.8	Trouble call processing
596.4	Initial performance tests	596.9	General
596.5	Annual tests to determine the extent of compliance		

Historical Note

Part (§§ 596.1–596.9) added, filed Apr. 17, 1973.

Section 596.1 Definitions. (a) Definitions contained in section 76.5 of the Federal Communications Commission (FCC) rules and regulations (except the definition of "cable television system" contained in paragraph [a] theerof) and in section 73.681 of said rules and regulations shall apply to this Part.

(b) Except as modified in the Part, the latest edition of the *IEEE Standard Dictionary of Electrical and Electronic Terms* shall be the final authority with respect to definitions not covered by sections 76.5 or 73.681 of the FCC's rules and regulations.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974.

596.2 Applicability. (a) Cable television systems which were not in actual operation on January 1, 1972 or had not commenced substantial construction as of that date, shall be constructed and operated in accordance with the requirements of this Part.

(b) For cable systems which were in actual operation or had commenced substantial construction prior to January 1, 1972:

(1) Compliance with the provisions of sections 596.3(b) and 596.9 will be required by not later than July 1, 1978 and compliance with sections 596.5, 596.6, and 596.8 will be required by not later than July 1, 1974.

(2) Initial performance tests with respect to substantial reconstruction of such systems shall be completed as set forth in section 596.4 of this Part.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, the commission reserves the right to require compliance at any time with reasonable technical performance standards.

(c) The provisions of sections 596.3(b) and 596.4 will not be applicable to cable systems located outside any "urbanized area" designated by the U.S. Census Bureau unless such system serves 10,000 or more subscribers from a single headend. Whenever an operating system not subject to sections 596.3(b) and 596.4 first becomes subject to such sections, a reasonable period, to be determined by the commission, will be afforded to permit the orderly upgrading of system performance.

(d) Systems not required by this Part to perform the initial tests set forth in section 596.4 are encouraged to do so to document the system performance for future preventive maintenance analysis.

(e) The provisions of sections 596.8(c), (d) and (e) will not be applicable to cable television systems serving fewer than 500 subscribers. It is recommended, however, that all systems follow the procedures set forth in sections 596.8(c), (d) and (e).

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

596.3 Performance standards. (a) Technical standards specified in FCC rules and regulations, Part 76, Subpart K, section 76.605, are hereby incorporated into these rules and shall apply to all Class I channels.*

(b) The following additional requirements and interpretations shall also apply to all Class I channels:

(1) The RMS voltage of FM radio carriers shall be maintained at least 10 dB below the level of the channel 6 visual carrier, where channel 6 is carried on the cable system.

(2) The ratio of visual carrier level to system noise shall be not less than 40 dB. This requirement is applicable to each Class I channel on which a signal is delivered to subscribers within that signal's Grade B contour, or which was originally received within its Grade B contour, exclusive of noise originating ahead of the antenna input.

(3) In those systems which supply subscribers with a converter, the visual carrier frequencies of the assigned channels as designated by section 73.603(a) of the FCC rules and regulations, or other designations as appropriate be maintained within ± 25 kHz at the input to such converters.

(4) Cross-modulation, as defined and measured in accordance with the latest edition of NCTA-002-0267,** shall be at least 46 decibels below the desired visual carrier in each Class I channel.

(5) The ratio of visual carrier level to the RMS amplitude of any coherent disturbances, such as intermodulation products, or discreet frequency interfering signals not operating on proper offset assignments, shall not be less than that indicated by the curve in Appendix R-1 to this Part.

(6) Envelope delay at 3.58 MHz, as measured by means of a 12.5 T or 20 T modulated sine-squared pulse, shall not differ from the average envelope delay

* Section 76.605(a)(11) of the FCC rules and regulations requires a minimum of 18 dB isolation between subscriber terminals. This is adequate for cable television systems transmitting only the standard channels designated in section 73.603 (a) of the FCC rules and regulations or for systems transmitting non-standard channels to which no television receiver is connected without a proper subscriber interface converter. However, 18 dB isolation may be inadequate under other circumstances, such as when a television receiver is connected to the system without an interface converter, either with or without the consent of the operator, depending on the magnitude of local oscillator leakage at the particular receiver terminals, and the specific signal levels delivered on non-standard channels to neighboring subscribers. Attention is directed, therefore, to section 76.617 of the FCC rules and regulations which provide that the operator of the cable system shall be responsible for the suppression of such receiver-generated interference, should it occur.

** NCTA-002-0267 is a publication containing engineering standards issued by the National Cable Television Association.

below 400 kHz by more than 200 nanoseconds, including the effects of cross-over filters in bi-directional systems.

(7) Multipath reflections, direct pickup leading "ghost", and reflections from transmission line discontinuities shall not exceed three percent (−30 dB) of the amplitude of the same signal directly received for time separation greater than one micro-second.

(c) The following requirements apply to any subscriber terminal interface channel conversion device, including set-top converters or block converters, supplied to subscribers in order to facilitate delivery of cable television channels.

(1) The difference between input and output frequency shall not change more than ± 250 kHz between 30 seconds and one hour after the associated receiver is first turned on, in an ambient temperature environment of approximately 70 degrees Fahrenheit and thereafter not drift more than ± 150 kHz per hour.

(2) No converter shall be used with cable television systems which develop more than 25 microvolts (− 32 dBmV) signal level at the input terminals when properly matched, with the output terminated, at any frequency between 50 MHz and 300 MHz, due to local oscillator leakage.

(3) At least one percent of all converter interface devices of each particular make and model supplied to subscribers shall be tested in the manufacturer's laboratory. The manufacturer shall certify that the tested units meet the criteria of paragraphs (c)(1) and (c)(2) of this section.

(d) Pending further technological developments, signals on Class II, Class III or Class IV cable television channels shall be transmitted without material degradation, and without objectionable interference to reception of Class I channels (within the limitations imposed by the technical state of the art).

(e) *Protection of subscriber privacy.*

(1) No signals may be transmitted from a subscriber terminal without the express written permission of the subscriber; any subscriber terminal capable of transmitting signals shall be so designed as to allow the subscriber to prevent or terminate any such transmission.

(2) Whenever a subscriber terminal is capable of transmitting signals, the subscriber shall be notified in writing that the terminal has this capability and shall be given written instructions explaining the operation of the terminal and the manner it may be activated or deactiviated by the subscriber.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

596.4 Initial performance tests. (a) Within 120 days of the commencement of service to subscribers on any portion of a new cable television system, or on any substantially reconstructed portion of a cable television system, technical performance tests shall be conducted by the system operator to determine the extent to which the system complies with the technical standards set forth in section 596.3.

(b) Except as provided in subdivision (c) of this section, the tests required by this section shall be performed by, or under the supervision of, a registered professional engineer, or an engineer with proper training and experience, using instrumentation and calibration procedures necessary to achieve reasonable precision of measurement.

(c) For systems located outside any urbanized area, the tests required by this section may be performed by an engineer or technician using instrumentation and procedures of the type normally used in the field for maintenance.

(d) Initial performance tests shall be conducted in accordance with the following schedule of test locations:

(1) At the headend.

(2) At or near the extremity of each main trunk cable and each branch cable extending more than five amplifiers from a main trunk.

(3) At the termination of each facility used to interconnect separate distribution facilities.

(4) At or near the extremity of a random sample of five feeder lines for each 50 strand miles, but in no case fewer than five feeders in each system.

(5) Signal levels only at no fewer than 30 subscriber terminals* selected at random for systems of 25 miles or less, and at least 15 additional subscriber terminals for each additional 50 miles, or increment thereof.

(e) In the event the measured performance at any sample location selected in accordance with paragraphs (2), (3) or (4) of subdivision (d) fails to comply with the technical standards set forth in this Part, corrective steps shall be taken to assure compliance. If 10 percent or more of the sample fails to comply with the requirement of paragraph (5) of subdivision (d), additional random samples shall be selected until the number of locations found to be in compliance equals the designated sample size and those subscriber locations found not to be in compliance shall be corrected within 30 days.

(f) The tests required by section 596.5(b) and 596.6 shall be made at the time of the initial performance tests to serve as reference guides for subsequent monitor point observations.

(g) To the extent not otherwise provided in this section, the person responsible for conducting the required tests shall determine the measurement method and techniques, including appropriate subjective methods, to be used and the specific characteristics to be measured at each location with respect to the relevant technical standards set forth in this Part.

(h) The report on initial performance measurements shall be submitted to the commission and shall be available for public inspection.

(i) In addition to the initial performance tests specified above, the signal level on all active Class I channels shall be measured at subscriber's terminals at not fewer than 20 percent of all new installations, within 120 days of such installation. The data shall be recorded by the cable television company and filed at its local office. These measurements may be made by any system employee trained in the proper use of the signal level meter.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

596.5 Annual tests to determine the extent of compliance. (a) Annual tests required by section 76.601(c) of the FCC rules and regulations shall be extended to include the additional performance standards of section 596.3(b) of this Part; provided, however, that the provisions of sections 596.3(b)(6) and 596.3(b)(7) may be subjectively evaluated.

(b) The monitor check points shall be calibrated by measurements of carrier-to-noise ratio and the amplitude of the cross-modulation, at the time of the annual tests required by the FCC.

(c) The report on annual measurements shall be kept on file for five years at the local office of the cable television company.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

* Subscriber tap ports may be tested in lieu of subscriber terminals, provided that appropriate data is included to relate such measurements to system performance as viewed from a subscriber terminal.

596.6 Monitor point tests. (a) Monitor check points shall be designated by each system operator in accordance with the following:

(1) The minimum number of monitor points shall be three for each distribution hub, plus one additional point for each 100 strand or route miles (or fraction thereof) of cable plant in each hub in regular operation.

(2) Monitor points shall be at or near the output of the last amplifier in the longest feeder line connected to trunk amplifiers selected by the operator to be representative of performance in all parts of the system. At least three such monitor points shall be at or near the extremities of the longest trunk lines.

(3) It is recommended, but not required, that test point terminals be installed at each monitor point to facilitate taking readings at convenient locations. It is further recommended, but not required, that all monitor points be in public rights of way, accessible to authorized persons at any time without requiring special permission.

(4) Monitor points must be located so as not to present a safety hazard to personnel engaged in performing the necessary tests.

(b) The following data shall be collected at each monitor point at least once each calendar month, at intervals not to exceed 40 days.

(1) Signal levels of each Class I carrier, and all pilot carriers, if any.

(2) Carrier-to-noise ratio at not fewer than three frequencies within the pass-band of the system. This measurement shall be performed without interrupting service to subscribers, and may be made by tuning the meter away from the carrier to a nearby guard band or vacant channel, provided that the measurement must always be made in the same manner.

(3) The results of subjective observation of picture quality by the technician with respect to visible beats, chrominance displacement, visible hum, electrical impulse noise, sharpness, color defects, "ghosts", and cross-modulation.

(c) A log of the monthly measurements at monitor points shall be kept on file for five years at the local office of the system.

(d) The calibration reference for continuing monitor check point observations is the complete data obtained in the initial performance tests or, in the case of systems exempt from requirements of section 596.4, the complete data obtained in the initial annual test required by section 76.601(c) of the FCC rules and regulations. Any subsequent changes in monitor points or monthly test procedures shall be accompanied by such additional data as may be required for proper evaluation.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

596.7 Testing by special request. (a) At any time after operation and service to subscribers has commenced, the commission may request additional tests, full or partial repeat tests, different test procedures or tests involving a specific subscriber's or other user's terminals.

(b) Requests for such special tests shall be issued by the chief of the commission's telecommunications division. Such requests shall specify the procedures and methods to be used by, and the information desired from, the cable operator.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

596.8 Trouble call processing. (a) A telephone number shall be made available to which subscribers may direct trouble calls. In the event that trouble calls must be made outside the subscriber's local dialing area, the calls must be toll free.

(b) Investigation action shall be indicated on the same day a trouble call is re-

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ceived at the local office, if possible, but in no case later than the following business day.

(c) A report on each trouble call in which a cable system fault reported by a single subscriber was identified shall be filed at the local office, and shall include the following data:

(1) Subscriber identification.

(2) Date and approximate time complaint was received.

(3) Date and approximate time of response.

(4) Nature of complaint.

(5) Brief description of the fault.

(6) Signal level measured on each active Class I channel after corrective action, where appropriate.

(7) Corrective steps taken (if any required).

(8) Date case is closed.

(9) Identification of technician or repairman.

(d) A report on each system fault, or on any failure reported by more than one subscriber and affecting an area, shall be filed at the local office and shall include the following data:

(1) Brief description of the area and approximate number of subscribers affected.

(2) Date and approximate time of failure.

(3) Cause of failure.

(4) Date and time service is restored

(e) A report for each trouble call in which no trouble was identified, or in which further instruction was required to enable the subscriber properly to adjust the terminal receiving equipment, or in which the fault was in the subscriber's receiving equipment, shall be filed at the local office and shall include:

(1) Subscriber identification.

(2) Date and time complaint was received.

(3) Date and time of response.

(4) Nature of complaint.

(5) Corrective steps taken (if any required).

(6) Identification of technician or repairman.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted.

596.9 General. (a) Construction of all cable television systems shall comply with all relevant safety codes, including electric or other public utility codes for joint use of pole lines and underground trenches or conduits, and applicable State and municipal laws, ordinances or regulations. Particular attention is called to the National Electric Code (NFPA No. 70-1971; ANSI C1 1971) article 820-3 regarding grounding of subscriber drops at building entry points.

(b) The operator of every cable television system shall have in the local office up-to-date system maps of suitable scale showing the location of all broadcast receiving sites, local origination studios, repeater amplifiers, trunk and distribution lines, and interconnecting facilities. Service drops to individual subscribers need not be shown. The scale of the maps shall be sufficient to clearly show the required detail, but in no case less than one inch to 800 feet. Changes and extensions shall be incorporated in the maps within 90 days of completion of construction of such changes or extension.

(e) All cable television systems shall be capable of meeting all the technical performance standards set forth in this Part at any ambient temperature between the normal daily minimum in February and the normal daily maximum temperatures in August as reported by the U.S. Environmental Sciences Weather Bureau for the community in which the system operates. The equipment and facilities shall not be subject to damage in ambient temperatures between −40 degrees Fahrenheit and + 140 degrees Fahrenheit.

(d) The equipment of all cable television systems shall be capable of meeting all the technical performance standards set forth in this Part when operating from a main source of electrical power at any voltage between 95 and 130 volts ac.

(e) Any or all of the tests or standards, except those required by section 596.3(a) of this Part may be suspended or modified, in the sole discretion of the commission, upon a showing that other equally satisfactory and/or less burdensome procedures cedures could be adopted to reasonably assure adequate service.

(f) The commission intends affirmatively to encourage the application of new and improved technology in cable television. Accordingly, special technical requirements may be prescribed when it has been shown that, because of basic design, or configuration, systems utilizing new concepts cannot comply with the requirements set forth herein.

Historical Note

Sec. added, filed Apr. 17, 1973; amd. filed May 3, 1974. New sec. substituted

PART 597

APPLICATIONS FOR CERTIFICATION

(Statutory authority: Executive Law, art. 28, §§ 815, 816, 821)

Sec.

597.1 Application for certificate of confirmation; contents

597.2 Signing and verification of application

597.3 Deficient applications

597.4 Notice of filing of application

597.5 Inquiry into matters raised by application or objection

597.6 Grandfather certificate

Historical Note

Part (§§ 597.1–597.6) added, filed Apr. 17, 1973.

Section 597.1 Application for certificate of confirmation; contents. An application for a certificate of confirmation must be filed by any person in receipt of a franchise or other operating authorization issued by any municipality in the State. Such application shall comply with the requirements of Part 590 of this Subtitle and shall set forth or include:

(a) The applicant's name, mailing address and telephone number, the municipality to be served, the date service commenced or will commence, as the case may be;

(b) A true copy of the franchise agreement and/or any other related authorizations or agreements;

(c) True copies of all documents submitted by the franchisee to the municipality as part of, or in support of, its application for a franchise;

(d) Full facts as to ownership of the cable television system. (This requirement can be satisfied by attaching a current copy of the applicant's "Annual

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Report of Cable Television Systems to the Federal Communications Commission"—FCC 325);

(e) Full facts as to the technical specifications and design of the system;

(f) Whether, and to what extent, the applicant intends to engage in origination cablecasting and access cablecasting; and,

(g) Whether, and to what extent, the proposed operation would be in violation of, or in any way inconsistent with, any Federal or State law or regulation.

Historical Note

Sec. added, filed Apr. 17, 1973.

597.2 Signing and verification of application. The application must be signed and verified by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications filed on behalf of government entities shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction. Only the original application need be signed; copies may be conformed.

Historical Note

Sec. added, filed Apr. 17, 1973.

597.3 Deficient applications. Where the application is deficient, or where the commission requires further information, the commission may require that the deficiency be remedied or that the information be supplied.

Historical Note

Sec. added, filed Apr. 17, 1973.

597.4 Notice of filing of application. (a) Upon filing an application for a certificate of confirmation, the applicant must give notice thereof as provided in this section. Such notice must set forth:

(1) The applicant's name and mailing address;

(2) The municipality served or to be served;

(3) The date service commenced or will commence;

(4) A statement that any interested person may file objections with the commission on or before a specified date (such date to be not less than 20 days from the date of last publication of the notice) and that interested persons may examine a copy of the application during normal business hours at a specified location within the municipality in question; and,

(5) A statement that true copies of any objection must be served upon the applicant and the franchising municipality.

[Next page is 230.529 EX]

(b) The notice of filing must be published at least once a week for two successive weeks in a newspaper of general circulation in the county where the municipality is located. Where a daily newspaper of general circulation has its principal business office in the municipality, such notice must be published in said newspaper at least three times each week for two successive weeks. Proof of such publication must be filed with the commission. The commission may at any time require publication of further notice if it determines that the notice given in accordance with this section was adequate.

Historical Note

Sec. added, filed Apr. 17, 1973.

597.5 Inquiry into matters raised by application or objections. If, after expiration of the 20-day period following the date of last publication of the notice of filing, no genuine and material issues are raised, the commission may summarily grant the application. If the commission finds that genuine, material issues exist or have been raised, it may conduct such further proceedings as it deems best suited to the speedy resolution of said issues.

Historical Note

Sec. added, filed Apr. 17, 1973.

597.6 Grandfather certificates. Irrespective of any other requirement or prohibition contained in this Subtitle, where an application for a certificate of confirmation meeting the requirements of this Part is filed prior to July 1, 1973, and where the applicant satisfies the commission that, as of January 1, 1972, said applicant (or a predecessor-in-interest) was lawfully engaged in actual cable television operations or had lawfully commenced substantial construction of a cable television system, the commission will grant a certificate valid until July 1, 1978. Nothing contained in this section shall be construed to extend the term of any franchise or other authorization heretofore granted to any cable television company.

Historical Note

Sec. added, filed Apr. 17, 1973.

PART 598

APPLICATIONS BY LANDLORDS PURSUANT TO SECTION 828(1)(b)

(Statutory authority: Executive Law, art. 28)

Sec.
598.1 Prohibition
598.2 Application for fee
598.3 Time for applying
598.4 Contents of application
598.5 Service of application
598.6 Comments by interested parties
598.7 Determination

Historical Note

Part (§§ 598.1—598.7) added, filed Oct. 30, 1973.

Section 598.1 Prohibition. Except as provided in section 598.2 of this Part, no landlord shall demand or accept any payment from any cable television company in exchange for permitting cable television service on or within said landlord's property or premises.

Historical Note

Sec. added, filed Oct. 30, 1973

598.2 Application for fee. A landlord shall be entitled to the payment of a reasonable fee, pursuant to section 828(1)(b) of the Executive Law, upon commission approval of an application for such fee.

Historical Note

Sec. added, filed Oct. 30, 1973.

230.529 EX 10-31-73

598.3 Time for applying. Any application made pursuant to this Part shall be filed within 60 days of the effective date of this Part or within 60 days following the commencement of cable television service by means of the facilities to which the application relates, whichever is later.

Historical Note

Sec. added, filed Oct. 30, 1973.

598.4 Contents of application. Such application shall set forth specific facts justifying a fee; such facts should include, but need not be limited to, a showing of (a) the nature and extent of any materials placed on the landlord's property, (b) the location and the amount of space occupied by such materials, (c) the previous use of such space, (d) the level of rents received from tenants of the premises and the location and amount of space occupied by such tenants, and (e) any amount agreed to or paid, and any provisions made pursuant to, section 828(1) of the Executive Law.

Historical Note

Sec. added, filed Oct. 30, 1973.

598.5 Service of application. Copies of the application filed with the commission shall be served upon all tenants in the building or buildings for which application is made, upon the cable company or companies making the installation, and upon the municipality or municipalities in whch the building or buildings are located.

Historical Note

Sec. added, filed Oct. 30, 1973.

598.6 Comments by interested parties. Any party served with an application and any other interested party shall be entitled to file comments in support of, or in opposition to, an application under this Part. Such comments shall be filed within 20 days of service of the application. A copy of any such comments shall be served on the applicant. The comments may include a showing of any alleged benefits conferred upon the property by the installation.

Historical Note

Sec. added, filed Oct. 30, 1973.

598.7 Determination. If the commission finds that a fee is justified pursuant to an application, it shall issue an order setting forth the amount and nature of the fee to be paid. If a fee is not found to be justified, an order shall be issued so stating. Any fee established pursuant to this section shall be applied retroactively to January 1, 1973, or to the date on which the cable television company installed the facilities to which the application relates, whichever is later.

Historical Note

Sec. added, filed Oct. 30, 1973.

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List of Cable Television Companies

In New York State

ALBANY COUNTY

CAPITOL CABLEVISION SYSTEMS INC.
Westgate Building
8 Russell Road
Albany, NY 12207
AC518-438-6891

Cty of Albany
Twn of Colonie
Vlg of Colonie
Twn of Guilderland
Vlg of Menands
Cty of Watervliet

SCHENECTADY CABLEVISION INC.
1650 Eastern Parkway
Schenectady, NY 12309
AC518-370-3900

Twn of Colonie

ALLEGANY COUNTY

ALFRED CABLE SYSTEM
4 Reynolds Street
Alfred, NY 14802
AC607-587-5313

Twn and Vlg of Alfred
Twn and Vlg of Almond

ALLEGANY VIDEO
26 Jefferson Street
Wellsville, NY 14895
AC716-593-1300

Twn of Wellsville
Vlg of Wellsville
Twn & Vlg of Andover
Twn of Willing
Twn of Amity
Twn of Scio

BOLIVAR CABLE TV CO.
76 Boss Street
Bolivar, NY 14715
AC716-928-1110

Vlg of Bolivar

CUBA CABLE INC.
24 West Main Street
Cuba, NY 14724
TL120-968-1530

Vlg of Cuba

RURAL VIDEO CORPORATION
17 West Hughes Street
Belfast, NY 14711
TL120-365-2715

Twn of Belfast
Twn of Canaadea

BRONX COUNTY

CATV ENTERPRISES
5923 Riverside Avenue
Bronx, NY 10471
TL139-983-6500 AC212

Cty of Bronx
Cty of Riverdale
Cty of Manhattan
Cty of Marblehill

DEPOSIT TELEVISION INC.
31 Pine Street
Deposit, NY 13754
TL133-467-2105

Vlg of Deposit
Twn of Sanford

BROOME COUNTY

EMPIRE STATE CABLE TV CO. INC.
30 W. State Street
Binghamton, NY 13902
AC607- TL133-772-1821

Cty of Binghamton
Twn of Binghamton
Twn of Chenango
Twn of Conklin
Twn of Dickinson
Twn of Fenton
Vlg of Johnson City
Twn of Kirkwood
Vlg of Port Dickinson
Twn of Union

CATSKILL MT. VIDEO
104 Main Street
Stamford, ny 12167
AC607-652-7192

Twn of Harpersfield

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BROOME COUNTY

PIONEER CABLEVISION CORPORATION
220 Stage Road
Vestal, NY 13850
TL133-754-2530

Vlg of Endicott
Twn of Maine
Twn of Vestal
Twn of Union &
West Corners

CATTARAUGUS COUNTY

AMERICAN CATV INC. d/b/a/ SALAMANCA CABLE TV
61 Main Street
Salamanca, NY 14779
AC716-945-4632

Cty of Salamanca
Twn of Salamanca
Twn of Great Valley

WARNER CABLE OF OLEAN
111 East Green Street
Olean, NY 14760
TL139-484-8000(NY)

Cty & Twn of Olean
Vlg & Twn of Portvill
Vlg & Twn of Allegany

CAYUGA COUNTY

AUBURN CABLEVISION INC.
144 Genesee Street
Auburn, NY 13021
AC315-252-7563

Cty of Auburn

MORAVIA TV SALES & SERVICE
468
Moravia, NY 13118
TL159-496-2222

Twn of Moravia
Vlg of Moravia
Twn of Locke

CHAUTAUQUA COUNTY

HARBOR-VUE CABLE TV INC.
59 Lake Shore Drive West
Dunkirk, NY 14048
TL179-366-8484

Cty of Dunkirk

KLEARPIK INC.
Box 152
Kennedy, NY 14747
TL179-267-3125

Twn of Poland

TELEPROMPTER OF JAMESTOWN INC.
316 Washington Street
Jamestown, NY 14701
TL179-664-7310

Twn of Busti
Twn of Ellicott
Vlg of Falconer
Cty of Jamestown
Twn of Kiantone
Vlg of Lakewood

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CHEMUNG COUNTY

CATSKILL MT. VIDEO
104 Main Street
Stamford, NY 12167
AC607-652-7192

Twn of Ashland

ELMIRA VIDEO
1130 South Main Street
Horseheads, NY 14845
AC607-739-7901

Twn of Ashland
Twn of Big Flats
Twn of Catlin
Cty of Elmira
Twn of Elmira
Vlg of Elmira Heights
Twn of Horseheads
Vlg of Horseheads
Vlg of Millport
Twn of Southport
Twn of Veteran
Vlg of Wellsburg

BEAVER VALLEY CABLE TV
104 Moreland Drive
Beaver Dams, NY 14812

Twn of Catlin

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CHENANGO

AFTON TV SYSTEM INC.
81 East Main Street
Afton, NY 13730 — Vlg of Afton
AC607-639-4041

BAINBRIDGE VIDEO INC.
129 Main Street — Vlg of Bainbridge
Groton, NY 13073

28 Juliand Street
Bainbridge, NY 13733

GREENE CABLEVISION CO. INC.
50 Genesee Street — Vlg of Greene
Greene, NY 13778
TL133-656-8717

PIONEER CABLEVISION CORPORATION
220 Stage Road — Vlg of New Berlin
Vestal, NY 13850 — Vlg of Oxford
TL133-754-2530

VALLEY VIDEO INC. — Cty of Norwich
Box 504 — Twn of Norwich
Norwich, NY 13815 — Twn of Plymouth
TL188-334-3639 — Twn of North Norwich

CLINTON COUNTY

AUSABLE COMMUNICATIONS INC. — Twn of Ausable
319 Front Street — Twn of Black Brook
Keeseville, NY 12944 — Twn of Peru
AC518-563-5777 — Cty of Plattsburgh
Twn of Plattsburgh
Plattsburgh Air Force Base
Twn of Schuyler Falls

COLUMBIA COUNTY

MID-HUDSON CABLEVISION INC.
P.O.Box 339 — Cty of Hudson
Catskill, NY 12414
TL184-828-5244

CORTLAND COUNTY

CORTLAND VIDEO INC. — Twn of Cortlandville
8 North Main Street — Twn of Cortland
Cortland, NY 13045 — Vlg of Cortland
AC607-756-2871 — Vlg of McGraw
Twn of Homer
Vlg of Homer

DELAWARE COUNTY

ANDES COMMUNITY TV INC.
Andes, NY 13731 — Vlg of Andes
AC914-676-3391

CATSKILL MT. VIDEO — Vlg of Hobart
104 Main Street — Twn of Roxbury
Stamford, NY 12167 — Twn of Stamford
AC607-652-7942 — Vlg of Stamford

DELAWARE COUNTY (Cont'd)

DELHI VIDEO
21 Elm Street
Oneonta, NY 13820
AC607-432-0500
Twn of Delhi
Vlg of Delhi

EAST BRANCH TV LINE INC.
RD 1
East Branch, NY 13756
TL188-363-7156
Twn of Hancock

HANCOCK VIDEO INC.
33 Front Street
Hancock, NY 13783
TL133-637-2142
Vlg of Hancock

PINE HILL TV CORP. & FLEISCHMANNS TV CORP.
P.O.Box 456
Margaretville, NY 12455
TL178-586-4277
Vlg of Clovesville
Vlg of Denver-Veg
Vlg of Halcottvil
Vlg of Roxbury
Vlg of Kelly Corne
rs
Vlg of Fleischmann

PIONEER CABLEVISION CORP.
220 Stage Road
Vestal, NY 13850
TL133-754-2530
Vlg of Franklin

ROSCOE COMMUNITY TV CORP.
Box F
Roscoe, NY 12776
AC914-292-7846
Twn of Colchester

SIDNEY VIDEO
5 Division Street
Sidney, NY 13838
AC607-563-1150
Twn of Sidney
Vlg of Sidney

WALTON COMMUNITY ANTENNA SYSTEMS
145 Delaware Street
Walton, NY 13856
TL188-865-4135
Vlg of Walton

DUTCHESS COUNTY

BETTER TV INC OF DUTCHESS CO.
75 Fountain Street
Providence, RI 02902
AC914-831-4700
Twn of Hyde Park

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PAWLING TELE-ANTENNA SYSTEMS INC.
Box 324
18 Maple Blvd.
Pawling, NY 12564
TL152-855-3201
Twn of Dover

POUGHKEEPSIE CABLEVISION INC.
Resevoir Square
Poughkeepsie, NY 12601
Twn of LaGrange
Twn of Pleasant Valley
Cty of Poughkeepsie
Twn of Poughkeepsie

DUTCHESS COUNTY (Cont'd)

U.S.CABLEVISION CORP.
75 Fountain Street
Providence, RI 02902
AC914-831-4700

Cty of Beacon
Twn of East Fishkill
Twn of Fishkill
Vlg of Fishkill
Twn of LaGrange
Twn of Poughkeepsie
Twn of Wappinger
Vlg of Wappingers Fall

ERIE COUNTY

AMHERST CABLEVISION INC.
602 Grover Cleveland Way
Amherst, NY 14226
AC716-837-1120

Twn of Amherst
Vlg of Williamsville

BLASDELL CABLEVISION INC.
850 Elk Street
Buffalo, NY 14210
AC716-826-9000

Vlg of Blasdell

CHEEKTOWAGA CABLEVISION INC.
850 Elk Street
Buffalo, NY 14210
AC716-826-9000

Twn of Cheektowaga
Vlg of Sloan

COURIER CABLE CO. INC.
785 Main Street
Buffalo, NY 14214
TL169-837-0256

Cty of Buffalo

HAMBURG CABLEVISION INC.
850 Elk Street
Buffalo, NY 14210
AC716-826-9000

Twn of Hamburg

WEST SENECA CABLEVISION INC.
850 Elk Street
Buffalo, NY 14210
AC716 TL169-826-9000

Twn of West Seneca

LACKAWANNA CABLEVISION INC.
32 S. Park Avenue
Lackawanna, NY 14218
AC716-826-9000

Cty of Lackawanna

ESSEX COUNTY

AUSABLE COMMUNICATIONS INC.
319 Front Street
Keeseville, NY 12944
AC518-563-5777

Twn of Chesterfield
Twn of Jay
Vlg of Keeseville

RESORT CABLE TV
70 Broadway
Saranac Lake, NY 12983
TL154-891-2810

Vlg of Lake Placid

SULLIVAN CABLE OF NEW YORK INC.
282 Glen Street
Glens Falls, NY 12802
TL160-793-6688

Twn of Ticonderoga
Vlg of Ticonderoga

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FRANKLIN COUNTY

ALLEGANY VIDEO
26 Jefferson Street
Wellsville, NY 14895
AC716-593-1300
Vlg of Belmont

MALONE NEWCHANNELS INC.
22 Pearl Street
Malone, NY 12953
AC518-483-1010
Twn of Bangor
Vlg of Brushton
Twn of Burke
Vlg of Burke
Twn of Chateaugay
Vlg of Chateaugay
Twn of Malone
Vlg of Malone
Twn of Moira

RESORT CABLE TV
70 Broadway
Saranac Lake, NY 12983
TL154-891-2810
Vlg of Tupper Lake
Vlg of Saranac Lake

FULTON COUNTY

GLOVERSVILLE TV CABLE CO.
5 East 8th Avenue
Gloversville, NY 12078
AC518-773-7376
Cty of Gloversville

JOHNSTOWN TV CABLE CO.
47 East Main Street
Johnstown, NY 12095
AC518-773-7376
Cty of Johnstown

GREENE COUNTY

CABLEMASTER CORPORATION
P.O. Box 235
Hunter, NY 12442
AC518-263-4265
Twn of Cairo
Twn of Hunter
Vlg of Hunter
Vlg of Tannersville

CATSKILL MT. VIDEO INC.
104 Main Street
Stamford, NY 12167
AC607-652-7192
Twn of Lexington
Twn of Prattsville
Twn of Windham

MID-HUDSON CABLEVISION INC.
P.O.Box 399
Catskill, NY 12414
TL184-828-5244 or 9906
Twn of Athens
Vlg of Athens
Twn of Catskill
Vlg of Catskill

HAMILTON COUNTY

SHAW MOUNTAIN CABLE TV INC.
Long Lake, NY 12847
TL154-624-3661
Twn of Long Lake

HERKIMER COUNTY

KWR SYSTEMS
19 Court Knolle
Box 41
New Hartford, NY 13413
AC315-732-3595
Vlg of West Winfiel

TELEPROMPTER OF JAMESTOWN
316 Washington Street
Jamestown, NY 14701
TL179-664-7310
Vlg of Celoron

HERKIMER COUNTY (Cont'd)

TELEPROMPTER OF MOHAWK VALLEY
50 West 44th Street
New York NY 10036
TL139-986-7500

Twn of Frankfort
Vlg of Frankfort
Twn of German Flats
Twn of Herkimer
Vlg of Herkimer
Vlg of Ilion
Cty of Little Falls
Vlg of Mohawk

MID NY BROADCASTING CO.
Box 105
Utica, NY 13503

Twn of Schuyler

JEFFERSON COUNTY

GENERAL ELECTRIC CABLEVISION CORPORATION
1202 Troy-Schenectady Road
Schenectady, NY 12309
AC518-370-3900

Cty of Watertown
Vlg of Black River

JEFFERSON CABLEVISION CORP.
P.O.Box 121
Clayton, NY 13624
AC315-686-3732

Vlg of Clayton
Twn of Clayton
Vlg of Adams
Twn of Adams

NEWCHANNELS CORPORATION
1030 James Street
Syracuse, NY 13202
AC315-474-3911

Camp Drum
Vlg of Carthage
Twn of Champion
Vlg of Deferiet
Vlg of Herrings
Vlg of West Carthage
Twn of Wilna

KINGS COUNTY

TPT COMMUNICATIONS INC.
50 West 44th Street
New York, NY 10036

Ebbets Field Apartments

LEWIS COUNTY

ADIRONDACK CABLEVISION INC.
Box 245
Boonville, NY 13309
AC315-348-6112 or 315-942-5000

Vlg of Port Leyden
Vlg of Lyons Falls

SUBURBAN CABLEVISION INC.
Box 191
Richfield Springs, NY 13439
AC315-376-3541

Vlg of Lowville

LIVINGSTON COUNTY

BRADLEY TV CABLE SERVICE
180 Main Street
Dansville, NY 14437
AC716-987-2554

Vlg of Dansville

WALLACE TV INC.
RD 2
Wallace, NY 14890
TL189-566-2479

Twn of Avoca

MADISON COUNTY

NU VIEW TV INC.
101 South Main Street
Oriskany Falls, NY 13425
TL147-821-7213

Twn of Madison

BEST COPY AVAILABLE

	CABLE TV OF ROCHESTER, INC. 360 East Avenue Rochester, NY 14614 AC716-232-3021	Cty of Rochester
	PEOPLE'S CABLE CORPORATION 400 Whitney Rodd Penfield, NY 14526 TL166-586-4320	Twn of Gates Twn of Greece Twn of Penfield Twn of Perinton Twn of Pittsford
	TELECABLE CORPORATION 177 Canal Street Ellenville, NY 12428 TL178-647-6666	Twn of Rochester
MONTGOMERY COUNTY		
	GATEWAY CABLEVISION CORPORATION 279 West Main Street Amsterdam, NY 12010 AC518-842-5942	Cty of Amsterdam Twn of Amsterdam Vlg of Fort Johnson Vlg of Hagaman
NASSAU COUNTY		
	INTER-COUNTY TV ENTERPRISES 120 East 23rd Street New York, NY 10010 TL139-556-4595	Twn of Hempstead Twn of Oyster Bay Vlg of North Hempstead
NEW YORK COUNTY		
	CATV ENTERPRISES 5923 Riverdale Avenue New York, NY 10471 TL139-983-5069	Cty of Bronx Cty of Riverdale Cty of Manhattan Cty of Marblehill
	COMTEL INC. 32-04 31st STreet Queens, NY 11106 TL139-721-3820	Cty of Manhattan
	STERLING MANHATTAN CABLE TV 120 East 23rd Street New York, NY 10010 TL139-556-4595	Borough of Manhattan
	TELEPROMPTER MANHATTAN CATV 50 West 44th Street New York, NY 10036 TL139-986-7500	Borough of Manhattan
NIAGARA COUNTY		
	STV CABLEVISION, INC. 2604 Seneca Avenue Niagara Falls, NY 14303 TL177-297-6900	Twn of Lewiston Vlg of Lewiston Twn of Niagara Cty of Niagara Fall Twn of Wheatfield

ONEIDA COUNTY

ADIRONDACK CABLEVISION INC.
Box 245
Boonville, NY 13309
AC315-348-6112 Ans. Serv: 315-942-5000

Vlg of Boonville

CABLETRON
224 West Dominick Street
Rome, NY 13440
AC315-337-1120

Cty of Rome
Griffiss Air Force Base

KWR SYSTEMS INC.
19 Court Knolle
New Hartford, NY 13413
AC315-732-3595

Cty of Oneida
Cty of Sherrill
Twn of Vernon
Vlg of Vernon
Vlg of Oneida Castle

MID NEW YORK BROADCASTING CO.
Central NY Cable TV Division
Box 105
Utica, NY 13503
TL147-732- 3113

Twn of Paris
Twn of Marcy
Twn of New Hartford
Vlg of New Hartford
Vlg of Whitesboro
Twn of Whitestown
Vlg of Yorkville
Vlg of New York Mills
Vlg of New Whitestown
Twn of Schuyler)
Vlg of Clayville
Twn of Kirkland
Vlg of Clinton
Cty of Utica
Twn of Deerfield
Vlg of Oriskany

NU VIEW TV INC.
101 South Main Street
Oriskany Falls, NY 13425
TL147-821-7213

Twn of Marshall
Vlg of Oriskany
Twn of Sangerfield
Vlg of Waterville

ONONDAGA COUNTY

NEWCHANNELS CORPORATION
1030 James Street
Syracuse, NY 13202
AC315-474-3911

Twn of Camillus
Vlg of Camillus
Twn of Dewitt
Vlg of East Syracuse
Vlg of Fayetteville
Twn of Geddes
Vlg of Liverpool
Twn of Manlius
Vlg of Manlius
Vlg of Minoa
Twn of Salina

BEST COPY AVAILABLE

ONONDAGA COUNTY (Cont'd)

ONONDAGA VIDEO INC.
300 First Trust Building
Syracuse, NY 13201
TL159-475-1611
Twn of Onondaga

UPSTATE COMMUNITY ANTENNA INC.
WSOQ Radio Building
North Syracuse, NY 13213
TL159-472-6705
Twn of Clay
Twn of Cicero

ONTARIO COUNTY

ONTARIO CABLE TELEVISION INC.
827 Canandaigua Road
Geneva, NY 14456
TL166-546-5670
Cty og Geneva
Twn of Geneva
Twn of Seneca

ORANGE COUNTY

N.C.D. OPERATING CO.
c/o Mrs. Alice Felter
155 East Main Street
Washingtonville, NY 10992
TL178-496-3314
VLG of Washingtonvill
part of Twn of
Blooming Grove

PORT VIDEO CORPORATION
22 Ball Street
Port Jervis, NY 12771
TL178-856-7223
Twn of Deerpark
Cty of Jervis

TELEPROMPTER OF NEWBURGH CABLE TV CORPORATION
Box 1478
Newburgh, NY 12550
TL152-561-8222
Vlg of Cornwall- on-Hudson
Twn of Cornwall
Twn of Marlborough
Cty of Newburgh
Twn of Newburgh
Twn of New Windsor

U.S.CABLEVISION CORPORATION
75 Fountain Street
Providence, RI 02902
P.O.Box 231
383 Fishkill Avenue
Beacon, NY 12508
AC914-831-4700
Twn of Blooming Grove
Vlg of Monroe
Twn of Monroe
Twn of Woodbury

WALDEN VIDEO CORPORATION
15 Orange Avenue
Walden, NY 12586
AC914-778-3558
Vlg of Walden
Vlg of Montgomery
Twn of Shawangunk
Vlg of Crawford

OSWEGO COUNTY

NEWCHANNELS CORPORATION
1030 James Street
Syracuse, NY 13202
AC315-474-3911
Vlg of Phoenix
Cty of Fulton

TELEPROMPTER OF OSWEGO INC.
175 East 7th Street
Oswego, NY 13126
Vlg of Minetto
Cty of Oswego
Twn of Oswego
Twn of Scriba

OTSEGO COUNTY

MORRIS CABLE SERVICES INC.
P.O.Box 218
Mt. Upton, NY 13809
TL188-783-2211
Twn of Morris
Vlg of Morris

ONEONTA VIDEO
21 Elm Street
Oneonta, NY 13820
AC607-432-0514
Twn of Oneonta
Cty of Oneonta
Twn of Laurens
Vlg of Laurens
Twn of Otego
Vlg of Otego

PIONEER CABLEVISION CORP.
220 Stage Road
Vestal, NY 13850
TL133-754-2530
Vlg of Cooperstown
Twn of Middlefield
Twn of Milford
Vlg of Milford
Twn of Otsego

SCHENEVUS TV CABLE
64 Main Street
Schenevus, NY 12155
TL188-638-5570
Vlg of Schenevus

SIDNEY VIDEO
5 Division Street
Sidney, NY 13838
AC607-563-1150
Vlg of Unadilla
Twn of Unadilla

SUBURBAN CABLEVISION
Box 191
Richfield Springs, NY 13439
Twn of Richfield
Vlg of Richfield Spring

WORCESTER VIDEO INC.
Solar Bluffs
Worcester, NY 12197
TL188-397-8285
Twn of Worcester

BEST COPY AVAILABLE

PUTNAM COUNTY

PUTNAM COUNTY CATV INC.
12 McNair Drive
Mahopac, NY 10541
Twn of Kent

QUEENS COUNTY

TPT COMMUNICATIONS INC.
50 West 44th Street
New York, NY 10036
Borough of Queens

RENSSELAER COUNTY

NEWCHANNELS CORPORATION
1030 James Street
Syracuse, NY 13202
AC315-474-3911

Cty of Troy

TROY NEWCHANNELS CORP.
2 Oakwood Avenue
Troy, NY 12280
AC518-274-1415

Twn of Brunswick

ROCKLAND COUNTY

GOOD-VUE CATV INC.
230 Park Avenue
New York, NY 10017
TL139-889-6670

Twn of Clarkstown
Twn of Ramapo
Vlg of Spring Valley

LONG ISLAND CABLEVISION CORP.
Rt. 58 & Osprey Avenue
Riverhead, NY 11901
TL136-727-6300

Hamlet of Nyack

ROCKLAND CABLEVISION INC.
12 Samsondale Avenue
West Haverstraw, NY 10993
AC914-429-4927

Twn of Haverstraw
Vlg of Haverstraw
Twn of Stony Point
Vlg of West Haverstraw

ST. LAWRENCE COUNTY

ANTENNA SYSTEMS CORPORATION
1030 James Street
Syracuse, NY 13202
AC315-474-3911

221 East Orvis Street
Massena, NY 13669
AC315-764-0244

Vlg of Canton
Twn of Canton
Twn of Louisville
Twn of Massena
Vlg of Massena

Twn of Norfolk
Vlg of Norwood
Twn of Potsdam
Vlg of Potsdam

BEST COPY AVAILABLE

COMMUNITY ANTENNA INC.
93 Main Street
Gouverneur, NY 13642
TL182-287-2610

Vlg of Gouverneur
Twn of Gouverneur
Vlg of Hailsboro
Twn of Fowler

OGDENSBURG VIDEO INC.
411 State Street
Ogdensburg, NY 13669
AC315-393-3090

Twn of Oswegatchie
Cty of Ogdensburg
Vlg of Heuvelton

SARATOGA COUNTY

NEWCHANNELS CORPORATION
1030 James Street
Syracuse, NY 13202
AC315-474-3911

Vlg of Saratoga Spring

SARATOGA CABLE TV CO. INC.
20 Lake Avenue
Saratoga Springs, NY 12866
TL183-584-4242

Cty of Saratoga Springs

SARATOGA COUNTY (Cont'd)

SULLIVAN CABLE OF NEW YORK INC.
282 Glen Street
Glens Falls, NY 12802
TL160-793-6688

Twn of Moreau
Vlg of South Glens Falls

SCHENECTADY COUNTY

SCHENECTADY CABLEVISION INC.
1650 Eastern Parkway
Schenectady, NY 12309
AC518-370-3900

Cty of Schenectady
Twn of Colonie
Twn of Glenville
Twn of Rotterdam
Twn of Niskayuna
Vlg of Scotia

SCHOHARIE COUNTY

CATSKILL MT. VIDEO
104 Main Street
Stamford, NY 12167
AC607-652-7192

Vlg of Middleburg

SCHUYLER COUNTY

BEAVER VALLEY CABLE TV
104 Moreland Drive
RD 2
Beaver Dams, NY 14812
AC607-936-3936

Beaver Valley Subdivision

SENECA COUNTY

SENECA VIDEO
P.O.Box 276
Seneca Falls, NY 13184
AC315 TL181-568-8800

Twn of Seneca Falls
Vlg of Seneca Falls
Twn of Waterloo
Vlg of Waterloo

STEUBEN COUNTY

ARKPORT TELEVISION SERVICE
27 East Avenue
Arkport, NY 14807
AC607-295-7703

Vlg of Arkport

AVOCA TV CABLE INC.
Box 28
Avoca, NY 14809
AC607-566-8492

Twn of Avoca
Vlg of Avoca

BATH TELEVISION & SERVICE CO. INC.
45 Liberty Street
Bath, NY 14810
AC607-776-4861

Twn of Bath
Vlg of Bath

BRADLEY TV CABLE SERVICE
180 Main Street
Dansville, NY 14437
AC716-987-2554

Vlg of Savona
Vlg of Wayland

CORNING NEWCHANNELS INC.
80 West William Street
Corning, NY 14832
AC607-936-3722

Vlg of Addison
Vlg of So. Corning
Vlg of Riverside
Vlg of Painted Post
Twn of Addison
Twn of Erwin
Twn of Corning

Cty of Corning
Twn of Campbell

BEAVER VALLEY CABLE TV
see above

Twn of Hornby

BEST COPY AVAILABLE

STEUBEN COUNTY (Cont'd)

GREENWOOD CABLE TELEVISION
Greenwood, NY 14839 Twn of Greenwood
TL189-225-4466

HAMMEL'S CABLE
Route 15 & Glendenning Road
Lindley, NY 14858 Twn of Lindley
TL149-523-7361

HORNELL TELEVISION SERVICE INC.
P.O.Box 188 Vlg of Canisteo
Hornell, NY 14843 Vlg of Hornell
AC607-324-4611 Twn of Hornellsville
Cty of Hornell

JASPER VIDEO
1 Orchard Street Twn of Jasper
Canisteo, NY 14823 Hamlet of Jasper
TL189-698-2644

SUFFOLK COUNTY

BROOKHAVEN CABLE TV INC.
P.O.Box C Twn of Brookhaven
Industrial Road Vlg of Lake Grove
Port Jefferson Station Vlg of Patchogue
Long Island, NY 11777
AC519-628-4900

HAMPTON CABLEVISION
401 Walnut Street Vlg of East
Philadelphia, PA 19105 Hampton

458 Pantigo Road
East Hampton, LI NY 11937
AC516-324-1201

HUNTINGTON TV CABLE COPR. Vlg of Huntington Bay
10 Stepar Place Twn of Huntington
Huntington Station, NY 11746 Vlg of
TL136-271-8800 Northport

BEST COPY AVAILABLE

INTER COUNTY TV OF SUFFOLK
120 East 23rd Street Twn of Huntington
New York, NY 10010 Twn of Islip
TL139-556-4595

LONG ISLAND CAVLEVISION CORP.
Route 58 & Osprey Avenue
Riverhead, NY 11901
TL1360727-6300

Twn of Riverhead
Twn of Aquebogue
Twn of Jamesport
Twn of South Jamesport
Twn of Calverton
Twn of Southold
Vlg of Orient
Vlg of East Marion
Vlg of Sag Harbor
Twn of EAst Hampton
Twn of Southhampton
Vlg of East Quogue
Vlg of Quiogue
Vlg of Westhampton
Vlg of Hampton Bays
Vlg of Remsenburg
Vlg of Eastport
Vlg of Westhampton Beach
Vlg of Quogue
Vlg of Speonk
Vlg of Peconic
Vlg of Cutchogue
Twn of Mattituck
Vlg of Laurel
Vlg of Greenport

SUFFOLK COUNTY (Cont'd)

SAMSON CABLEVISION CORP.
95 Brightside Avenue — Twn of Islip
Central Islip, NY 11722
TL136-582-4440

STERLING BABYLON CABLE TV INC.
120 East 23rd Street — Twn of Babylon
New York, NY 10010 — Vlg of Amityville
TL139-556-4595 — Vlg of Lindenhurst

SUFFOLK CABLE OF SMITHTOWN
95 Brightside Avenue — Twn of Smithtown
Central Islip, NY 11722
TL136-582-4440

SUFFOLK CABLE OF SHELTER ISLAND INC.
27 William Street — Twn of Shelter Isle Island
New York, NY 10005 — Vlg of North Haven
TL136-582-4440 — Vlg of Elmira Heights
Vlg of Dering Harbor

SUFFOLK CABLE CORP.- BROOKHAVEN
95 Brightside Avenue — Twn of Brookhaven
Central Islip, NY 11722
TL136-582-4440

BEST COPY AVAILABLE

TELEPROMPTER ISLAND CABLE TV CORP.
50 West 44th Street
New York, NY 10036

16 Railroad Avenue — Twn of Islip
Babylon Village, NY 11702 — Vlg of Babylon
TL139-986-7500

WEST BROOKVILLE VIDEO INC.
270 East Main Street — Twn of Deer Park
Port Jervis, NY 12771
TL178-856-7141

SULLIVAN COUNTY

BARRYVILLE CO-OP TV CABLE ASSOCIATION
P.O.Box 62 — Twn of Highland
Barryville, NY 12719
AC914-956-8767

FALLSBURG VIDEO INC.
FALLSBURG, NY 12779 — Hamlet of South Fallsburg in Twn of Fallsbur
TL178-434-4567

JEFF-TEL INC.
85 North Main Street — Vlg of Jeffersonville
Liberty, NY 12754
AC914-292-3800

KLM VIDEO CORPORATION
Box 86 — Twn of Fallsburg
Main Street
Woodbourne, NY 12788
AC914-434-4241

SULLIVAN COUNTY (Cont'd)

LIBERTY VIDEO CORPORATION
85 North Main Street
Liberty, NY 12754
AC914-292-3800
Twn of Liberty
Vlg of Liberty
Twn of Neversink
Twn of Thompson

MASTER TV ANTENNA SYSTEMS INC.
31 North Street
Monticello, ny 12701
TL178-794-8600
Vlg of Monticello
Twn of Thompson
Twn of Bethel

NARROWSBURG COMMUNITY TV INC.
Box 171
Narrowsburg, NY 12764
TL178-252-7335
Twn of Tusten

ROSCOE COMMUNITY TV CORPORATION
Box F
Roscoe, NY 12776
AC914-292-7846
Twn of Rockland
Hamlet of Roscoe

ROUND TOP TELEVISION CLUB INC.
Livingston Manor, NY 12758
TL178-439-5332
Hamlet of Livingstor Manor in the Twn of Rockland

TELECABLE CORPORATION
177 Canal Street
Ellenville, NY 12428
TL178-647-6656
Twn of Fallsburg
Twn of Mamakating

WALTS TV SALES & SERVICE
Callicoon, NY 12327
TL178-887-4450
N.B. located in Callicoon

WEST BROOKVILLE VIDEO INC.
270 East Main Street
Port Jervis, NY 12771
TL178-856-7141
Twn of Mamakating

BLUE RIDGE CABLE OF NY INC.
P.O.Box 121 Barryville, NY 12719
Vlg of Barryville
Vlg of Eldred
Vlg of Yulan
Vlg of Minisink Forc
Twn of Highland

TIOGA COUNTY

CERACCHE TELEVISION CORPORATION
519 West State Street
Ithaca, NY 14850
TL187-272-3456

Twn of Candor
Vlg of Candor
Twn of Newark Valley
Vlg of Newark Valley

PIONEER CABLEVISION CORPORATION
220 Stage Road
Vestal, NY 13850
TL133-754-2530

Twn of Owego- Apalachin area
Twn of Owego.

TIOGA TV CABLE CO. INC.
40 Lake Street
Owego, NY 13827

Vlg of Owego
Twn of Tioga

VALLEY TV CABLE CO.
142 West Lockhart Street
Sayre, PA 18840
AC717-882-0391

Vlg of Waverly
Twn of Barton

TOMPKINS COUNTY

CERACCHE TELEVISION CORPORATION
519 State Street
Ithaca, NY 14850
T1187-272-3456

Twn of Caroline
Vlg of Cayuga Heights
Twn of Danby
Twn of Dryden
Twn of Enfield
Cty of Ithaca
Twn of Ithaca
Twn of Lansing
Twn of Newfield
Twn of Ulysses

OSTRANDER TV & CABLE INC.
129 Main Street
Groton, NY 13073
TL187-898-3295

Vlg of Groton

CORTLAND VIDEO INC.
8 North Main Street
Cortland, NY 13045
AC607-756-2871

Vlg of Dryden
Twn of Dryden

ULSTER COUNTY

KINGSTON CABLEVISION INC.
Box 878
Port Ewen, NY 12466
TL152-331-1711 & 1804

Cty of Kingston
Twn of Hurley
Twn of Ulster
Twn of Woodstock
Twn of Esopus
Twn of Kingston
Twn of Rhinebeck
Vlg of Rhinebeck
Twn of Red Hook
Vlg of Red Hook
Vlg of Tivoli

MT. TREMPER VIDEO LTD.
Mt. Tremper, NY 12457
TL152-679-6778

Twn of Shandaken

NAPANOCH TV SERVICE CLUB INC.
177 Canal Street
Ellenville, NY 12428
TL178-647-6666

Twn of Wawarsing

ULSTER COUNTY (Cont'd)

NEW PALTZ TELE-CABLE CORPORATION
Box 171
8 North Front Street
New Paltz, NY 12561
TL152-255-5520
Twn of New Paltz

OLIVE CABLEVISION CO.
RD 2
Box 255
Kingston, NY 12401
AC914-657-2774
Twn of Olive

PINE HILL TV COPR. & FLEISCHMANNS TV CORP.
P.O.Box 456
Margaretville, NY 12455
TL178-586-4277
Vlg of Highmount
Vlg of Pine Hill
Vlg of Big Indian
Vlg of Shandaken
Vlg of Olivera

BEST COPY AVAILABLE

TELECABLE CORPORATION
177 Canal Street
Ellenville, NY 12428
TL178-647-6666
Vlg of Ellenville
Vlg of Woodridge
Twn of Wawarsing
Hamlet of Napanoch
Twn of Rochester

U.S.CABLEVISION CORPORATION
75 Fountain Street
Providence, RI 02902

P.O.Box 231
383 Fishkill Ave,
Beacon, NY 12508
AC914-831-4700
Twn of Lloyd
Twn of Marlborough
Twn of Plattekill

TELEPROMPTER OF NEWBURGH CABLE TV CORP.
Box1478
Newburgh, NY 12550
TL152-561-8222
Twn of Marlborough

VIDACABLE CATV SYSTEMS
R D 1 Box 161
High Falls, NY 12440
TL152-687-9695
Twn of Marbletown
Twn of Rosendale

VIDI-COMM OF SAUGERTIES INC.
124 Partion Street
Saugerties, NY 12477
AC914-246-2700
Twn of Saugerties
Vlg of Saugerties

WALDEN VIDEO CORP.
15 Orange Avenue
Walden, NY 12586
AC914-778-3558
Twn of Shawangunk

WARREN COUNTY

COLONIAL CABLEVISION INC.
P.O.Box 762
Glens Falls, NY 12801
TL160-793-3835
Twn of Queensbury

SULLIVAN CABLE OF NEW YORK INC.
282 Glen Street
Glens Falls, NY 12802
AC518-793-6688
Cty of Glens Falls
Vlg of Lake George
Twn of Lake George
Twn of Warrensburg

WASHINGTON COUNTY

COLONIAL CABLEVISION INC.
P.O.Box 762
Glens Falls, NY 12801
TL160-793-3835
Twn of Kingsbury
Twn of Fort Edward
Vlg of Hudson Falls
Vlg of Fort Edward

GRANVILLE CABLEVISION
Box 646
Manchester, VT 05254
Granville, NY 12832
TL160-642-2666
Vlg of Granville
Vlg of Middle Granville

BEST COPY AVAILABLE

SULLIVAN CABLE OF NEW YORK INC.
282 Glen Street
Glens Falls, NY 12802
AC518-793-6688
Twn of Whitehall
Vlg of Whitehall

WAYNE COUNTY

INFORMATION TRANSFER INC.
Box 167
Newark, NY 14513
AC315-331-7733
Vlg of Clyde
Vlg of Lyons
Vlg of Newark
Vlg of Palmyra

WESTCHESTER COUNTY

CONTINENTAL CATV OF NEW YORK INC.
312 Washington Street
Peekskill, NY 10566
AC914-739-6660
Cty of Peekskill
Vlg of Montrose
Vlg of Crugers
Vlg of Buchanan
Vlg of Verplanck
Twn of Yorktown

MT. KISCO COMMUNICATIONS INC.
Radio Circle
Mt. Kisco, NY 10549
TL134-241-0264 & 1310
Twn of Bedford
Vlg of Mt Kisco
Twn of Yorktown

TELEPROMPTER COUNTY CABLE TV CORP.
581 Gramatan Ave.
Mount Vernon, NY 10552
Cty of Mt. Vernon

WYOMING COUNTY

WARSAW TELEVISION CABLE CORP.
Box 25
Warsaw, NY 14569
TL170-796-5638
Vlg of Warsaw

YATES COUNTY

PENN YAN CABLEVISION
20 Lake Street Plaza
Penn YAn, NY 14527
AC716-593-1300
Vlg of Penn Yan
Twn of Jerusalem
TWN of Milo & Benton

September 1973

SURVEY

New York State CATV Systems & Services

A telephone survey of the existing ETV Channels was conducted in August 1973. The following responses were received:

Cable Company & Contact	Channel Capacity	School Systems Served by CATV	Channels Available Commercial Network Affiliates (CNA) & Others	Weekly Operations Hours/Days
Alfred Cable System Gladys Burzycky	12	Alfred University Alfred State Col.	CNA: WHEC,WBEN,WOKR,WGR WKBW,WROC,Canadian-CBLT CFTO ETV: WCNY, WXXI 6 FM's	168/7
Auburn Cablevision Gregory Lawson	12	All Auburn Schools BOCES Center Auburn Cty. Comm. College	CNA: WSYR,WNYS,WHEN WHEC,WOKR,WROC,CKWS WPIX,WOR,WNEW ETV: WCNY	15/5
Beacon Cable Corp. Howard Carichsen	12	Wappingers Sch. Beacon Schools	CNA: WABC,WCBS,WNBC WNEW,WOR,WPIX,WNJU WRGB,WTEN ETV: WNYC,WNET	42/7
Empire State Cable Mrs. Scott	12	All Binghamton Schools	CNA: WBJA,WICZ,WHEN WNBF,WNYS,WSYR,WNEW WOR,WPIX ETV: WSKG	168/7

Cable Company & Contact	Channel Capacity	School Systems Served by CATV	Channels Available Commercial Network Affiliates (CNA) & Others	Weekly Operations Hours/Days
Bolivar TV Cable Mrs. Baker	7	Village of Bolivar	CNA: WBEN,WGR,WKBW,WOKR WHEC,WROC ETV: Ch. 3 20 FM's	168/7
Valley Cable-vision C. Bosgurgh	9	Canajoharie Ft. Plain St. Johnsville	CNA: WAST,WTEN,WRGB, WKTV,WUTR,WOR,WPIX	112/7
AC Cable Mrs. Cardonia	16	Ithaca Schools New Field Central Lansing Elem. & High School	CNA: WVIA-Pa. ETV: WCNY	80/5
Carthage Video Shirley Best	9	Carthage High Sch. Carthage Elem. Sch. Great Bend Elem.	CNA: CKWS,WKTV,CJOH Canadian WHEN,WNYS,WCBS,WPIX WSYR ETV: WKRT,WCNY,WSKG	168/7
Corning Community TV Ford Clark	12	Addison School Campbell Central All Corning Sch.	CNA: WCBS,WPIX,WBJA WICZ,WNBF,WENY,WKBW WNEW,WOR,WSYE,WHEN CHCH-Hamilton ETV: WSKG	168/7
Cortland Video Kate Feinstein	12	All Cortland Schools	CNA: WOR,WNEW,WPIX WSYR,WHEN,WNYS,WBJA WICZ,WNBI ETV: WKRT,WCNY,WSKG 1 FM	168/7

BEST COPY AVAILABLE

Cable Company & Contact	Channel Capacity	School Systems Served by CATV	Channels Available Commercial Network Affiliates (CNA) & Others	Weekly Operations Hours/Days
Cuba Cable Loran Chamberlin	12	Cuba Central Cuba Elem.	CNA: WBEN,WGR,WKBW,WUTV WHEC,WOKR,WROC,CHCH ETV: WNED,WXXI 4 Fm's	168/7
Bradley TV Robert Warner	12	Dansville Central Sabona Central	CNA: WBEN,WGR,WKBW,CHCH WHEC,WOKR,WROC CFTO-Canadian ETV: WXXI	168/7
Delhi Video Alice Colby	12	Oneonta High Sch. Otego High Sch. Lawrence High Sch. SUNY at Oneonta	CNA: WNBF,WNYS,WCBS,WPIX WKTV,WBNG,WRGB ETV: WSKG,WCNY	56/7
Deposit TV Inc. Mrs. Payne	5	Deposit Central School	CNA: WICZ,WNBF,WSYR,WDAU WNEP ETV: WSKG	168/7
Ontario Cable TV C.E. Monson	12	All Schools in Geneva	CNA: WNEW,WSYR,WOR,WHEN WNYS,WHEC,WOKR,WROC,WPIX ETV: WXXI,WCNY	168/7
Community Antenna Sandra Leonard	12	Gouverneur Central East & West Side Elementary	CNA: WSYR,WNYS,WPIX CJOH,CKWS-Canadian ETV: WNPE	168/7
Long Island Cable Vincent Uricchio	12	West Hampton High South Hampton High Greenport High	CNA: WHNE,WNBC,WCBS,WOR WNEW,WPIX,WTNH,WTIC ETV: WNYC,WNET Ch. 6 local	168/7

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Cable Company & Contact	Channel Capacity	School Systems Served by CATV	Channels Available Commercial Network Affiliates (CNA) & Others	Weekly Operations Hours/Days
Hampton Cable Linda Holmes	12	East Hampton High East Hampton Elem. Anagansett Elem.	CNA: WTNH,WTIC,WABC,WCES WNBC,WNEW,WOR,WPIX,WJAR WPRI,WTEV ETV: WHET	168/7
Antenna System Mrs. McGrath	12	Massena Central Holy Family High Jefferson Elem. Washington Elem. Nightingale Elem. Madison Elem.	CNA: WCAX,WPTZ Ch. 8 local	168/7
Better TV of Orange County Mrs. Landaw	13	North Main St. Sch.	CNA: WCBS,WNBC,WNEW,WABC WOR,WPIX,WTEN,WRGB,WNJU WTNH ETV: WNET All band FM	168/7
Teleprompter Cable Mrs. Miller	12	Horseheads Sch. Wellsburgh Sch. System	CNA: WICZ,WNBF,WENY,WSYE WHEN,WNYS,WPIX,WOR,WNEW CHCH ETV: WSKG,WCNY 11 FM's	168/7
Tri Town Video Beverly Wike	12	Union Endicot School System Vestal Central 7 Parochial Sch. Main Endwell Sch.	CNA: WNBF,WICZ,WBAJ,WBRE WDAU,WPIX,WOR ETV: WSKG 14 FM's	168/7

Cable Company & Contact	Channel Capacity	School Systems Served by CATV	Channels Available Commercial Network Affiliates (CNA) & Others	Weekly Operations Hours/Days
Rockland Cable	12	North Rockland School System	CNA: WABC,WCBS,WNBC,WNEW WOR,WPIX,Ch.3 Hartford Ch.8 New Haven Ch.12 Patterson ETV: WNET	168/7
Ostrander TV Mrs. McLear	12	Groton Central Cortland Comm. College	CNA: WNBF,WBJA,WICZ,WROC WHEC,WOKR,WSYR,WHEN,WNYS ETV: WCNY,WSKG	168/7
Jamestown Cable Mrs. Swails	12	Jamestown High Lincoln Jr. High Washington Jr.High Jefferson Jr. High	CNA: WGR,WKBW,WBEN,WICA WSEE,WJET,WPSX,WNEW,WOR WPIX,CHCH,CKCO ETV: WNED	168/7
Teleprompter Island Cable TV Marie Basirico	18	Islip Schools	CNA: WEDW,WTIC,WABC,WNBC WCBS,WNEW,WOR,WPIX ETV: WLIW,WNET	168/7
Kingston Cable Michael Fisher	12	All Kingston Sch. Rhinebeck Central All Redhook Sch.	CNA: WCBS,WTIC,WNBC,WNEW WRGB,WABC,WOR,WTEN,WPIX WAST ETV: WMHT,WNET	168/7
Liberty Video Elenore Bloom	12	Liberty Central Liberty Elem. Swan Lake School White Sulphur Sch.	CNA: WCBS,WABC,WNBC,WNEW WOR,WPIX,WTNH,WTIC ETV: WNED 2 FM's	168/7
Lackawanna Cablevision	12	Lackawanna Schools Blasdel Schools Hamburg Schools Sloan School W. Seneca Schools	CNA: WBEN,WGR,WKBW ETV: WNED 2 FM's	168/7

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Cable Company & Contact	Channel Capacity	School Systems Served by CATV	Channels Available Commercial Network Affiliates (CNA) & Others	Weekly Operations Hours/Days
Hornell TV Jack Pryor	12	Hornell High Sch. Hornell Middle Sch. Lincoln Elem. Sch. Bryant Elem. Sch. Columbia Elem. Washington Elem.	CNA: WBEN,WGR,WKBW,WOKR WSYE,WHEC,WROC,WNEW,WOR WPIX ETV: WXXI	168/7
US Cablevision Mrs. Gayle	12	No Schools	CNA: WTEN,WTIC,WTNH,WABC WCBS,WNBC,WNEW,WOR,WPIX WRGB ETV: WSKG,WNET All band FM	168/7
Afton TV System	6	No Schools	CNA: WKTV,WICZ,WBJA,WNBF ETV: WSKG,WNET 20 FM's	168/7
Master TV Antenna Robert Vaughn	12	No Schools	CNA: WDAW,WBRE,WNEP, Scranton, Pa WNHC New Haven WBNG Binghamton ETV; WNET	168/7
Teleprompter of Newburg Larry Cloutier	12	Cornwall High	CNA: WCBS,WRGB,WABC,WTNH WOR,WNJU,WTIC,WNBC,WNEW WPIX ETV: WNET	168/7
New Paltz Tele Cable Corp.	12	New Paltz Duzine School New Paltz Middle New Paltz High	CNA: WCBS,WNBC,WNEW,WABC WOR,WPIX,WTEN,WRGB,WTIC WTNH ETV: WNET All band FM	168/7

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Cable Company & Contact	Channel Capacity	School Systems Served by CATV	Channels Available Commercial Network Affiliates (CNA) & Others	Weekly Operations Hours/Days
Valley Video Mrs. Nolin	12	All Norwich Schools	CNA: WBJA,WICZ,WNBF,WHEN WNYS,WSYR,WKTV,WNEW,WOR WPIX ETV: WSKG,WCNY	168/7
Salamanca TV Paul Formica	12	Prospect School Jefferson St. Sch. Salamanca High Sch. Seneca School	CNA: WBEN,WGR,WKBW,WUTV WICU,WPSX,WPIC,WNEW,WOR CHCH,CFTO ETV: WNYC	168/7
Hudson Valley Cablevision Mr. Callhoun	12	No Schools	CNA: WNEW,WOR,WPIX,WTIC WTNH,WRGB,WTEN,WABC WCBS,WNBC ETV: WNET All band FM	168/7
Cable TV of Rochester Mrs. Carreira	60	No Schools	CNA: WBEN,WGR,WKBW,WSYR WHEC,WOKR,WROC ETV: WXXI	168/7
Mid-Hudson Cable Joanne Barra	12	Catskill High Grandview Sch. Irving Elem. St. Patricks	CNA: WTIC,WAST,WRGB,WTEN ETV: WMHT	168/7
Capitol Cable Dorothy Patashnick	20	Not currently in service	CNA: WTEN,WRGB,WAST ETV: WMHT	168/7
Walden Video Janet Kadlic	12	Pinebush Sch. Montgomery Sch. Wallkill Sch.	CNA: WTNH,WCBS,WNBC,WNEW WABC,WOR,WPIX,WNBF,WDAU ETV: WNET All band FM	168/7

Cable Company & Contact	Channel Capacity	School Systems Served by CATV	Channels Available Commercial Network Affiliates (CNA) & Others	Weekly Operations Hours/Days
G.E. Cable J.G. Brabant	12	Watertown High Jefferson Comm. College	CNA: WHEN,CKWS,CJOH,WNYS WNEW,WOR,WPIX ETV: WWNY 3 FM's	168/7
Warsaw TV Cable Irving Toner	12	Warsaw Central St. Michael Elem.	CNA: WBEN,WGR,WKBW,CHCH WHEC,WOKR,WROC,CBLT,CFTO ETV: WNED	16 /7
Allegany Video Beverly Bledsoe	12	All Wellsville Sch. School #10 Andover	CNA: WGR,WKBW,WBEN,WPSX WROC,WHEC,WOKR,WOR,WNEW WPIX 14 FM's	16 /7
Windsor Cable Morris Baxter	7	Hopersville Central Sch. Windsor Central	CNA: WBRE	168/7
Walton Comm. Antenna System Mrs. Jean Combs	12	Walton Central	CNA: WBJA,WIBE,WICZ,WNYS WBRE,WOR,WPIX,WNEW ETV: WSKG	168/7
Teleprompter of Mount Vernon	25	No service at this time	CNA: WABC,WCBS,WNBC,WNEW WOR,WPIX,WEDW,WTNH ETV: WLIW,WNYE,WNET	168/7
Normandy TV H. Sutphen	12	Kingsbury Hudson Falls Village of Fort Edward	CNA: WTEN,WAST,WMEW,WOR WPIX ETV: WMHT	168/7

Cable Company & Contact	Channel Capacity	School Systems Served by CATV	Channels Available Commercial Network Affiliates (CNA) & Others	Weekly Operations Hours/Days
Comtel Inc. Mrs. McCarroll	12	No Schools	CNA: WABC,WCBS,WNBC,WNEW WOR,WPIX ETV: WNYE,WNYC	168/7
Community Cable Max Caralton	6	No Schools	CNA: None ETV; None	None
Courier Cable Mrs. Allen	12	Buffalo Sch.	CNA: WBEN,WGR,WKBW,WICU CHCH,WHEC,WUTV,WOKR,WROC CBLT,CFTO ETV: WNED	168/7
Green Cable Michael Csigi	5	Green Central Schools	CNA: WBJA,WICZ,WNBF ETV: WSKG	168/7
Margaretville Tele Viz Roy George	7	Margaretville Central	CNA: WRGB,WAST,WTEN,WCBS ETV: WNET	168/7
Manhatten Cable John Banning	26	New York City Schools	CNA: WCBS,WNBC,WNEW,WABC WOR,WPIX,WNJU,WXTV ETV: WNYE,WLIW,WNET,WNYC	168/7

CABLE TELEVISION:

The Study Phase of the Regulatory Process

Report of Subcommittee B

of the FCC Federal-State/Local

Advisory Committee on Cable

Television*

*Only those criteria deemed of immediate concern and interest are reported here as a partial summary of the entire report of the Subcommittee.

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Subcommittee B

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Introduction

Eight major points were considered by Subcommittee B in its report to the FCC. Those eight points included the following:

1. Subscriber rates and prices for auxiliary services and franchise fees;

2. Public access channels, educational access channels and government access channels;

3. Leased access channels;

4. Community need for two-way capability; or, additional access channels beyond FCC requirements;

5. Interconnections;

6. Modernization, system expansion, equipment compatibility; and poll attachments;

7. Ownership of cable systems;

8. Privacy.

The general thrust of Subcommittee B was to take the following position:

a) That cable television is a local community matter;

b) The local level is the proper locus for most decisions regarding franchising and use of a CATV system;

c) Most local communities require sufficient information and a continuous flow of information which can be encouraged or disseminated in several ways, mainly from a state or regional level;

> (This, of course, has been the position of the Regents in their position paper of November 1970. It may be recalled that the Regents at that time suggested that the proper authority for disseminating information regarding educational and community service options would be that of the Regents. In this way, the Regents propose to aid the new CATV Commission of New York State.)

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d) It is the function of Federal and State governments to provide guidelines for local action and to handle only those aspects of regulation which are difficult or impossible for local communities to handle successfully;

e) Local level action will frequently require many different local level groups

f) General understanding of cable issues and detailed understanding of specific options is necessary for a community;

(It is in disseminating such information to communities and working with them that the Regents propose to serve the needs of the CATV Commission. Much expertise is needed at the local level and communities because they lack this expertise are frequently reluctant to commit funds to adequate uses of CATV and such funds might appropriately be committed from the state level.)

g) Before franchising, a study phase should be initiated and continued throughout the existence of the franchise agreement. The purpose of that study phase is

1) to decide on community uses;

2) to be equitable in determining franchises;

3) to lend direction and adequate controls regarding the technical aspects of the system operation and its extension;

4) to make provision in the franchise ordinance for periodic review and renegotiation.

5) to provide for open hearings before franchises are made;

6) to arrange easy access to documents for the citizenry at large so that these may be discussed adequately at hearings. Consultants should be available to citizen groups in a community to enhance the value of the participation in the franchising authority's decisions.

(The interence here is that no one group of citizens should take over the entire influence and direction of the way in which a franchise shall be granted or what the franchise ordinance shall provide.)

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h) That the function of the local franchising authority be the locus for gathering information and making it available to the community;

i) Significant alternatives should be available to the local level before franchises are granted and during the process of operation so that intelligent decisions for the benefit of the community can continue to be made. Consultants are needed during the study phase and consultants, of course, require funding. One source of funds for this franchise purpose is the franchise applicants themselves. Another is the State government, and states and federal government can play significant roles in gathering and disseminating information.

j) Major functions of a State level commission should include the following:

   1) alternatives for State action;

   2) encouraging intrastate interconnection where appropriate;

   3) providing a coordinating function whereby interstate interconnection on a regional basis can be affected;

   4) providing a statewide source of information on cable television.

The following conclusions were drawn by Subcommittee B:

1. The appropriate subdivision of CATV labors and areas of concern between the Federal, State and local level is still an open-ended consideration. States can contribute to and encourage experimentation in the development of cable television.

2. Technical standards of national uniformity are desirable. However, state-to-state variations may be desirable with respect to such matters as interconnection.

3. In all cases a study phase before and during the operation of a CATV system is necessary and desirable and should involve all three levels of government.

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A significant recommendation of Subcommittee B was that the information should be made available to states and from states in relation to the following organizations:

1. The Federal Communications Commission
2. The National Cable Television Association
3. The Cable Television Information Center of the Urban Institute

"Public Access Channels, Educational Access Channels, and Government Access Channels"

Public access channels fall into the following three categories:

a. those available to the community;

b. educational access; and

c. local government access.

The present rules of the FCC provide the following:

- The cable system operator shall allocate time to users of access channels within the rules and regulations established by the Federal Communications Commission;
- Use of access channels is at no cost, but cost for programing at a very high level of sophisticated presentation can be expensive. The operator of a system is unlikely to use his limited resources to actively develop the use of such channels;
- Development of the use of access channels would, of course, receive full cooperation from the operator of a system if the programing was attractive;
- There can be problems for the operator of a channel between competing claimants for the use of any given channel.

Subcommittee B suggests the following innovation to help in the allocation and use of public access channels: The establishment of one or more local boards to take the responsibility for promoting the use of access channels and for allocating time on them. Preferably,

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in a large community three boards, each dealing with one of the channels, might be appropriate. There should be coordination between the boards, or they might function as three parts of one large representative board. The functions of the boards might properly be the following:

a. For the educational channel, representatives of local public school systems, preschool education, private and parochial schools, adult education, vocational education, and university or higher institutional education;

   1) Some of the funds collected by the franchising authority as a percentage of subscriber revenue might be used to promote the use of these channels.

   2) An allover board or a combination of the three kinds of board activities described above could facilitate equitable administration of such funds.

b. Such board (s) should either be appointed or elected;

c. Such board (s) would be more favorably disposed toward meeting needs of the community; would also relieve the CATV operator of any thought of being of service only to pressure groups.

The FCC encourages experimentation by local communities. However, provision is not made under the present FCC rules for the governing of such committees. Only the cable system operator is governed.

A waiver might be sought from the FCC by specific franchising authorities. The purpose of that waiver would be to permit a local board to accept jurisdiction and administration of the operation of access channels in the given community.

Mechanisms for settling disputes between the local board, the system operator, and the franchising authority should be carefully worked out in advance.

Subcommittee B recommends that the establishment of such local advisory committees or boards would bring potential benefit to the community, and the establishment of such boards would be well worth the effort, particularly if these are elected by local communities.

The following should be noted in re the functions that might be exercised by a board in the regulation of a public access channel:

a. The FCC has a first-come first-served rule which would presumably always be followed;

b. Board could arrange times of presentations to assist both viewers and presentors;

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c. In re the government and education channel:

1) The board which aids operator in assigning time and preparing programing for the government channel should be made up a diversity of governmental unit representation. In a small community such representation not necessary; in a larger community, units from a Department of Transportation, to one of Mental Hygiene, Sanitation, or the like should seek appropriate time to make known the functions of such boards and ways in which changes can affect the community.

2) In the case of the educational channel, a board should help in making programing time allocation decisions.

d. An FCC rule change might seek permission to pool the use of all three channels.

(e.g., during certain hours might be best to make more than one access channel available for educational need. Particularly true during daylight and inschool hours when use of more than one channel might be particularly helpful for educational purposes. This same approach could apply when more than one channel might be needed, either for community service or for governmental programs. A single board operating to aid the use of these channels might render decisions when it would be difficult for either the franchising authority or the system operator to do so.)

e. Without a rule change innovative thinking can also help. -- Certain public institutions that can be regarded as <u>both governmental and educational</u>.

1) These institutions could qualify for the use of more than one public access channel at a given time as these are needed. Examples of this dual qualification might include such institutions as the following: libraries, museums, teaching hospitals, and the like. A neutral board would aid a system operator and protect the community, simultaneously.

f. FCC rules and regulations provide that when public access channels are unused they may be leased by the system operator. A board or boards seeing to the adequate use of such channels might be helpful in preventing bias in keeping access channels unused by nonpaying users.

g. Technical standards for the use of public access channels should appropriately be made at the Federal level and should include the following:

1) Access should be made easy and as low cost as possible;

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2) High standards for picture and sound should be established so that these are reasonably clear; standards should not be so high as to eliminate, for example, the use of black and white video equipment. Should be kept high enough to eliminate poorly done video tape. Objectives should be as indicated but should be under the regulatory control and by establishment of the Federal Communications Commission.

"Leased Access Channels"

Rules governing leased access channels are in the view of the Subcommittee the most critical part of cable regulation. Subcommittee B recommends the following:

1. Gathering of national data from all existing cable systems on the financing of access channels;

2. Local franchising authorities should establish rate structures which encourage equitable use and wide availability of leased channels.

"Non-discriminatory Rate Structures"

A nondiscriminatory two-part rate structure is desirable in the following configurations:

1. A rate for services which are not revenue producing; i.e., for additional channels for educational and other nonprofit users (apart from the free access channel);

2. A rate charged in excess of the cost of providing a channel because of high programing costs to the lessee and because of the high rate of income producing that the specific use of the leased channel brings about.

An overriding principle has the following parts to it:

a. The part proportional to leased time should be adequate to cover the operator's cost plus a reasonable profit;

b. There should be no disadvantage to the operator of the system to lease channels to educational and other non-profit sources if the recovery is his operating cost plus a very small profit.

c. Franchising authorities and State level authorities might set regulations which would create a discriminatory pricing structure for the use of leased channels.

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d. Such a pricing structure should have the following parameters:

. It might grant lower rates to educational nonprofit users;

. All recommendations related to rate structures, should take place after the current 5 - year period during which the FCC is seeking to avoid any rate regulation whatever.

"Community Need for Two-Way Capability, Additional Capacity In General, or Additional Access Channels Beyond FCC Requirements"

1. The present FCC rules provide that new systems shall be designed for expanding channel capacity and two-way capability;

2. The rules do not prevent advance technical capability and increased capacity beyond present requirements, if a waiver is obtained and specific plans exist for such capabilities.

3. The plans of such capabilities must be detailed in advance.

4. Unlimited system expansion capability is already defined in the present rules and regulations, thus providing for additional access channels as these become used up, as well.

"Interconnection"

The following are points to be regarded in relation to interconnection:

Two types of interconnection are possible:

1. Real time physical interconnection by cable and microwave link or satellite;

a. For purposes of exchanging programs of interest to subscribers in adjoining city;

e.g. an educational program originating in a public school in one city of value and interest to children throughout a school district which encompasses two or more cities.

b. For statewide microwaving purposes for programs of interest to cable systems throughout a state;

c. For multi state interconnections where adjoining cities with common interests lie in different states;

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d. For regional and national satellite systems such as the Rocky Mountain educational satellites which will clearly be of interest on a multi state interconnection basis;

e. For commonality of programing interests where shared programing costs would create programs of high order of general interest;

f. For interconnection and networking between congressional districts, school districts,or other political jurisdictions with a commonality of interest and a desire to exchange social, cultural, educational,and political programming;

g. Networking can create major economies in terms of programing and operation;

h. Interconnection between systems under a given franchising authority and where a State level authority exists can be regulated by such authorities for the benefit of the subscribers through multiple systems;

i. Interconnection may be of interest on the following bases:

1) For regional government associations and needs;

2) For statewide cooperative arrangements;

3) For interrelations between franchising authorities;

4) For economic reasons by operators of multiple systems;

5) Regional interconnection is also needed between franchising areas on a large regional basis, on a multistate basis or for Federal needs.

(Interconnection of cable systems is a major concern of the Regents in relation to other telecommunications systems such as:

. satellite

. point-to-point microwave

. VHF and UHF broadcasting

. ITFS systems)

2. Interconnection by means of prerecorded video and audio tape, only.

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"Ownership of Cable Systems"

The following should be noted regarding ownership of cable systems:

1. There are present Federal level regulatory controls on ownership of cable systems by owners of television stations, newspapers, or other types of firms such as multiple system operators with "too large a share of the total cable market."

2. Problems arise in relation to firms with inadequate capital or other weaknesses being granted franchises.

3. To adequately judge the capabilities of franchise seekers a format for comparable information on competing franchisees is needed, supplying such information as:

   . financial information

   . information on beneficial ownership

   . information describing compliance with federal rules concerning access channels and technical standards

   . a uniform periodic reporting format with respect to franchise fees, subscriber rights, revenues, rates for leased channels, percentage of access channels, and the like.

"Privacy"

Several issues regarding privacy are a matter of concern to Subcommittee B. These issues are noted here as being of possible interest to the Regents:

1. The way in which public access channels are used now forbids regulation of the use of those channels by the system operator. He is freed from responsibility for what is broadcast on the public access channels. However, the subscriber to a cable system operation is also due some protection of his privacy. His desire not to receive certain kinds of information in his home or not to have certain channels made available at certain times in his home should perhaps give him the right to install a restrictive device of some kind on his set. The privacy of the user as well as the privacy of the recipient subscriber are both, therefore, in need of protection.

2. A second issue related to privacy concerns the accummulated record of a subscriber's program preferences, or use of services, goods purchased, contributions made, and the like.

User profiles which indicate such kind of preference would be of interest to merchandisers, political organizations, social scientists, government agencies, and the like.

Rules are necessary to limit the collection and use of such information.

Regulation protecting the subscriber must be adopted. A rule is necessary to prevent transfer of this kind of information without a written waiver or some other kind of permission from the subscriber, himself.

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